AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

7-17-79
Vol. 44 No. 138
Pages 41421-41758

federal register

Tuesday
July 17, 1979

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the rules and regulations to permit the optional use of upward adjustments by handlers in Districts 1 and 3, during the 1979–80 season, of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

DATES: August 1, 1979, through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* The rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100–910.180) are effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee. This amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

Under the order the prorate base of each handler is based upon his average weekly pick (the average weekly amount of lemons harvested and delivered to such handler's packinghouse during a specified number of weeks preceding the computation date). In recognition of the fewer number of weeks during which lemons are harvested in Districts 1 and 3, the order provides that the handlers in such districts may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season of the extra allotment received. The order provides in § 910.53(h) that the percentage of adjustment, specified in §§ 910.53(f)(1) and 910.153(e)(3), may be changed. Effective Jan. 1, 1979, an amendment to § 910.153(e)(3) changed the percentage of adjustment from 50 percent to 100 percent. Under provisions of the amendment the percentage would revert to 50 percent on August 1, 1979.

The committee reports that, due to the conditions expected to prevail during the 1979–80 season, the term of the amendment should be extended to permit the optional use of upward adjustments by handlers in Districts 1 and 3 of not to exceed 100 percent of their average weekly pick during the 1979–80 season. This would allow such handlers the continued option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

After consideration of all relevant matter presented, including the recommendation of the committee and other available information, it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to 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) in that (1) the recommendation of the committee was made at a public meeting at which interested parties were afforded an opportunity to present information and views, (2) the effective time hereof will not require of handlers any preparation that cannot be completed prior thereto, and (3) this amendment relieves restrictions on the handling of lemons grown in California and Arizona.

Therefore, § 910.153 of Subpart—Rules and Regulations (7 CFR Part 910.100–910.180; 43 FR 60863) is amended to read as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1) the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of this average weekly pick: *Provided,* however, that during the period August 1, 1979, through July 31, 1980, upon request of any such handler, the committee shall adjust such handler's average weekly pick in the amount requested but not in excess of 100 percent. * * *

* * * * *

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

Dated: July 12, 1979, to become effective August 1, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-21990 Filed 7-16-79; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1831, 1832, and 1833

Loans Primarily for Production Purposes; Deletion of Regulations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration deletes regulations from the CFR. This action is taken to remove unnecessary regulations from the CFR in accordance with Executive Order 12044.

EFFECTIVE DATE: July 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph H. Linsely, Phone: 202–447–4057.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration deletes Subchapter C including Parts 1831, 1832 and 1833 of Chapter XVIII, Title 7 in the Code of Federal Regulations. Parts 1831 and 1832 are simply "Reserved" Parts and contain no regulations. Part 1833, "Economic Opportunity Loans to Individuals" contains the regulations which implemented Title III, Part A, § 302 of the Economic Opportunity Act of 1964 (Pub. L. 88–452). The authority to administer this program was given to the Department of Agriculture by the Director of the Office of Economic Opportunity (29 FR 14764). A revolving fund was set up in § 306 of the Act to carry out this program. The capital of the fund was to consist of amounts advanced from money appropriated pursuant to § 321 of the Act. Section 321 provided for the duration of the program and appropriations for the program, and was repealed in 1978 by Pub. L. 95–568, § 8(a)(2), 92 Stat. 2428.

Executive Order 12044 (43 FR 12661) told executive agencies to review their existing regulations and consider whether or not there is a continued need for the regulations. As part of an overall review of its regulations, FmHA has determined that Part 1833 is no longer needed and should be eliminated. No loans have been made under this program since 1971, and that section of the Act which provided for the duration of the program and funding for the program has been repealed. Because there are no other FmHA regulations in the Subchapter, FmHA is also deleting the Subchapter from the CFR at this time.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C 553 with respect to such rules. This deletion, however, is not published for proposed rulemaking since the change will have no effect on the public. This determination has been made by Mr. Gordon Cavanaugh, Administrator.

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES [DELETED]

PARTS 1831, 1832 and 1833 [DELETED]

Therefore, Subchapter C, "Loans Primarily for Production Purposes" including Parts 1831 and 1932 which are reserved and Part 1833, "Economic Opportunity Loans to Individuals" is hereby deleted from Title 7 in the Code of Federal Regulations.

Note.—This action has not been determined significant under the USDA criteria implementing Executive Order 12044

A copy of the Final Impact Analysis is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–C "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and Environmental Impact Statement is not required.

(5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: July 9, 1979.

W. J. Nagle,

Acting Administrator, Farmers Home Administration.

[FR Doc. 79-22047 Filed 7-16-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of ALIA—The Royal Jordanian Airline to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add a carrier to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: June 7, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

On June 7, 1979, the Commissioner of Immigration and Naturalization concluded an agreement with ALIA—The Royal Jordanian Airline to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238. Accordingly, 8 CFR 238.3(b) will be amended by adding "ALIA—The Royal Jordanian Airline" to the listing in alphabetical sequence.

In the light of the foregoing, the following amendment is hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "ALIA—The Royal Jordanian Airline."

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228(d).)

Effective date: The amendment contained in this order becomes effective on June 7, 1979.

Dated: July 11, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79-21986 Filed 7-16-79; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 0

Conduct of Employees; Ownership of Stocks, Bonds, and Other Security Interests by NRC Employees

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission has revised its regulations governing the ownership of stocks, bonds, and other security interests by NRC employees.

EFFECTIVE DATE: July 17, 1979.

FOR FURTHER INFORMATION CONTACT: Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (202 634–1465).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has conducted a thorough review of its regulations governing the ownership of stocks, bonds, and other security interests by NRC employees and determined that several changes should be made to 10 CFR 0.735–21 and 0.735–29. NRC employees and the National Treasury Employees Union commented on these proposed changes and the final rule adopted by the Commission incorporates most of the comments.

The amendments to 10 CFR 0.735–29 are best understood by briefly summarizing the origin of that section. Added to Part 0 on December 19, 1973, § 0.735–29 prohibited Atomic Energy Commission (The Commission's predecessor agency) employees involved in licensing and regulatory activities from owning security interests in the following types of entities: (a) Any publicly or privately owned utility company engaged in the generation, distribution or sale of electric energy, or parent company of such company; (b) any company manufacturing or selling nuclear power or test reactors; (c) any architectural-engineering company primarily engaged in the design or construction of nuclear power or test reactor facilities; and (d) any company whose business consists substantially of serving as a consultant to companies engaged in activities licensed or regulated by the Commission. Upon creation of the Nuclear Regulatory Commission (which acceded to the Atomic Energy Commission's regulatory authority), the decision was made to apply the prohibition of § 0.735–29 to all full-time NRC employees as well as to certain special government employees.

The Commission is amending § 0.735–29 to better reflect the Commission's regulatory responsibilities and an individual employee's role within the agency. NRC employees will for the first time be permitted to own stock, bonds or other security interests in electric utilities which have not been authorized by the Commission to construct or operate a nuclear reactor or do not have applications pending before the Commission seeking early site review or authorization to construct or operate a nuclear reactor. The Commission does not have jurisdiction over non-nuclear electric utilities and accordingly, we find little justification for prohibiting NRC employees from owning stock in those companies. Of course, once a utility files an application seeking early site review or authorization to construct a nuclear reactor, employees would be prohibited from owning securities issued by that company and employees would be required to divest themselves of any security interests held in that company. The Commission will continue to prohibit its employees from owning bonds issued by state and local governmental entities in those cases where the primary purpose of the bond is to raise funds to operate or constuct a nuclear reactor. The Commission is also retaining its prohibition on security interests issued by companies manufacturing or selling nuclear power or test reactors. The Commission is revising its prohibition on architectural-engineering companies so that it will be easier to provide employees with a list of firms whose securities they may not own. Commission employees will be prohibited from owning securities issued by architectural-engineering companies that have been engaged to provide services relating to a nuclear facility by an applicant for a construction permit, a holder of a construction permit, or an applicant for an operating license. In addition, employees will be prohibited from owning securities issued by architectural-engineering companies which have filed a standard reference design that is under Commission review, or has been approved by the Commission and is currently effective.

The Commission will also for the first time prohibit its employees from owning securities issued by fuel cycle applicants or licensees (companies engaged in milling, converting, fabricating, reprocessing, storing, or disposing of source or special nuclear material). This category is added because a large number of Commission employees are involved in regulatory activities related to the nuclear fuel cycle.

The Commission is deleting the bar against owning securities issued by companies whose business consists substantially of serving as consultants to companies engaged in NRC regulated activities. Most of the consulting firms are partnerships or small corporations which do not issue public securities, and therefore the prohibition had little effect. Furthermore, it was impossible to provide employees with a list of the companies covered by the prohibition because the Commission was unable to define what constituted "substantially" serving as a consultant to companies engaged in NRC regulated activities.

The foregoing security ownership prohibitions will be applicable to all NRC employees occupying positions at the GS–13 level or above, and as well as all other employees who provide input into the decision-making process. (These employees will be designated by the Commission according to their occupational code.) The security ownership prohibitions will apply to the NRC employee, and to the employee's spouse, minor children, and any other member of the employee's household. The Commission considered applying the prohibitions as is done presently to all Commission employees. The Commission decided not to do so because many employees, such as clerical personnel, do not participate in the decision-making process. A far-ranging restriction on their personal investing freedom is unnecessary. This, however, does not create a regulatory gap which could allow these employees to profit from inside information gained as an NRC employee. NRC regulations prohibit all employees from directly or indirectly using or allowing the use of official information, obtained through or in connection with their government employment, which has not been made available to the general public, to further a private interest. 10 CFR 0.735–41.

To implement these provisions, NRC employees subject to this restriction will be given a list twice a year of those securities which they are prohibited from purchasing. Employees will be given 365 days from the time the list is published to divest themselves of any prohibited security interest. Employees will not be permitted to work on matters affecting an entity until they have divested themselves of the prohibited security, notwithstanding the provision of § 0.735–21(c), discussed below. Employees will for the first time be required to certify annually that they are in compliance with § 0.735–29. Employees will also sign such a certification within thirty days after commencing NRC employment. This codifies existing NRC practice.

With respect to securities which NRC employees are not prohibited from owning, § 0.735–21 of the Commission's regulations permits NRC employees, including special government employees, to work on matters affecting the issuing entity provided that the current market value of the security interests held by the employee and

members of his immediate household do not exceed $7,500. The Commission is reducing that $7,500 figure to $1,000. The Commission believes that in some cases $7,500 may be a significant portion of an employee's liquid assets and that an investment of that size could conceivably affect an employee's judgment. Accordingly, we are reducing the *de minimis* figure.

Commissioner Bradford does not concur in several of the amendments adopted by the Commission. He believes that the security ownership prohibition should be applied to all NRC employees. He would extend the security ownership prohibition to all electric utilities and to the major consulting firms which the Commission would designate. Finally, he believes that employees should not be permitted to work on matters affecting an entity in which they or members of their household have a financial interest, regardless of the amount.

Because these amendments relate solely to matters of agency management or personnel, good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary, and for making the amendments effective July 17, 1979.

Pursuant to section 2201(p) of Title 42 of the United States Code, Executive Order 11222 of May 8, 1965, 5 CFR 735.104, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 0, are published as a document subject to codification, to be effective July 17, 1979.

1. Section 0.735–21(c)(1) is revised to read as follows:

§ 0.735–21 Acts affecting a personal financial interest (based on 18 U.S.C. 208).

* * * * *

(c) *Exemption of remote or inconsequential financial interests.*—(1) In accordance with the provisions of 18 U.S.C. 208(b)(2) the NRC has exempted the following financial interests from paragraph (a) of this section and from the requirements of paragraph (b) of this section, upon the ground that such interests are too remote or too inconsequential to affect the integrity of its employees' services:

(i) Financial interests in an enterprise in the form of shares in the ownership thereof, including preferred and common stocks whether voting or nonvoting, and warrants to purchase such shares;

(ii) Financial interests in an enterprise in the form of bonds, notes, or other evidence of indebtedness;

(iii) Investments in State or local government bonds and investments in shares of a widely held diversified mutual fund or regulated investment company, except holdings in mutual investment funds or regulated investment companies dealing primarily in atomic energy stocks;

Provided, That in the case of subdivisions (i) and (ii) of this subparagraph:

(A) The total market value of the financial interests described in said subdivisions with respect to any individual enterprise does not exceed $1000; and

(B) the holdings in any class of shares, or bonds, or other evidences of indebtedness, of the enterprise do not exceed 1 percent of the dollar value of the outstanding shares, or bonds or other evidences of indebtedness in said class.

* * * * *

2. Section 0.735–29 is amended to read as follows:

§ 0.735–29 Restriction against ownership of certain security interests by Commissioners, certain staff members and other related personnel

(a) No Commissioner or employee, including special government employees who are members of the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel or the Atomic Safety and Licensing Appeal Panel, who occupies a position at or above GS–13 or its equivalent, shall own any stocks, bonds, or other security interests issued by any entity falling within the categories set forth in paragraph (b)(1) of this section. This prohibition also applies to employees who occupy positions below the GS–13 level that fall within occupational codes designated by the Commission. The restrictions set forth in this section apply to spouse, minor child, or other members of the immediate household of a Commissioner, employee, or special government employee. In cases where the entity covered by the prohibition is a subsidiary of another corporation, the prohibition extends to the parent company.

(b) The Commission will publish twice yearly a list of stocks, bonds, and other security interests which employees covered by this section may not own.

(1) These are stocks, bonds, or other security interests issued by:

(i) Publicly or privately owned utilities which have filed an application with the Commission requesting an early site review, or seeking authorization to construct or operate a facility for the generation of electric energy by means of a nuclear reactor and those utilities which have received a construction permit or an operating license from the Commission that is currently effective.

(ii) State or local governments, if the primary purpose of the security is to finance the construction or operation of a nuclear reactor.

(iii) Companies manufacturing or selling nuclear power or test reactors.

(iv) Architectural-engineering companies that have been engaged to provide services relating to a nuclear facility by an applicant for a construction permit or an applicant for an operating license, and architectural-engineering companies which have filed a standard reference design that is under Commission review or has been approved by the Commission and is currently effective.

(v) Companies licensed by the Commission to mill, convert, enrich, fabricate, store, or dispose of source or special nuclear material, or applicants for such licenses.

(2)(i) An individual covered by this section who owns securities described in paragraph (a)(1) of this section shall dispose of them no later than 365 days after the entities first appear on the list described in paragraph (a) of this section. Notwithstanding the provisions of § 0.735–21(c), no employee may participate personally and substantially in a particular matter affecting any entity that appears on the list as long as the employee or his spouse, minor child, or other members of his immediate household owns the security interest.

(ii) An individual newly employed by NRC who is covered by this section shall dispose of any securities described in paragraph (a)(1) of this section that the employee may own no later than 30 days after his entrance on duty and within the same period shall ensure and sign a certification that neither the employee nor any individual who is covered by this section through relationship with him owns any securities described in that paragraph.

(c) Each individual employed by NRC who is covered by this section shall each year sign either (1) a certification that neither he nor any individual covered by this section through relationship with him owns any securities described in paragraph (a)(1) of this section or, if he or any such individual in fact owns securities therein described, (2) a certification identifying them, disclosing how and when they were acquired and stating approximately when they will be disposed of.

(d) Securities described in paragraph (b)(1) of this section that are acquired by an individual who is covered by this section through gift, inheritance or other similar involuntary manner shall be disposed of within a reasonable time.

(e) The Commission may exempt an employee from the restrictions of this section where divestiture of the stock, bond, or other security interest is determined to be inequitable by the Commission.

Dated at Washington, D.C., this 10th day of July 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-21802 Filed 7-16-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

Agency for International Development

22 CFR Part 202

Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: AID Regulation 2 is being revised to incorporate a 1978 amendment to the Foreign Assistance Act of 1961, as amended (the "Act"). This amendment contained in Section 123 of the Act expands the circumstances under which AID may reimburse ocean freight costs incurred by voluntary non-profit relief agencies on overseas shipments of voluntary contributions in support of development, relief and rehabilitation programs.

The authority for reimbursement of ocean freight costs was broadened to permit payment to inland points of entry not only in the case of landlocked countries (previously authorized) but also (1) when ports cannot be used effectively because of natural or other disturbances, (2) when ocean carriers to a specified country are unavailable, or (3) when a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

Other changes include addition of a new section (202.5) which provides for AID approval of PVO programs prior to reimbursement of freight charges. This section was formerly included in AID Regulation 3, 22 CFR Part 203.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert S. McCluskey, Chief, Public Liaison Division, Office of Private and Voluntary Cooperation, Bureau for Private and Development Cooperation, Agency for International Development, Department of State, Washington, DC 20523 (703-235-1844).

SUPPLEMENTARY INFORMATION: This notice announces certain amendments to AID Regulation 2, overseas shipments of supplies by voluntary nonprofit relief agencies, Title 22, Code of Federal Regulations, Chapter II, Part 202, which was last published in its entirety in the **Federal Register** of August 10, 1977.

AID Regulation 2, 22 CFR Part 202, overseas shipments of supplies by voluntary nonprofit relief agencies, establishes the procedures by which voluntary, nonprofit agencies can qualify for and receive, in accordance with Section 123 of the Foreign Assistance Act of 1961, as amended, reimbursement from AID for ocean freight costs they incur on overseas shipments of voluntary contributions in support of development, relief and rehabilitation programs.

Accordingly, 22 CFR Part 202 is amended as follows:

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[AID Reg. 2]

PART 202—OVERSEAS SHIPMENTS OF SUPPLIES BY VOLUNTARY NON-PROFIT RELIEF AGENCIES

A.I.D. Regulation 2 is hereby revised as follows:

Sec.

202.1 Definition of terms.
202.2 Shipments eligible for reimbursement of freight charges.
202.3 Freight Reimbursement limitations.
202.4 Certificates.
202.5 Approval of programs, projects and services.
202.6 Applications for reimbursement of freight charges.
202.7 Documentation required for reimbursement.
202.8 Refund by suppliers and/or agencies.
202.9 Waiver authority.

Authority: 202.1 to 202.9 issued under sec. 621, 75 Stat. 424, as amended; 22 U.S.C. 2151. Interpret or apply secs. 102, 92 Stat. 937, 22 U.S.C. 2151u; E.O. 10973, 26 FR 10469, 3 CFR 1961 Supp.

§ 202.1 Definition of terms.

(a) "The Administrator" means the Administrator of the Agency for International Development.

(b) "The Committee" means the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(c) "Supplies" means development, relief and rehabilitation supplies shipped in support of programs approved by AID as well as administrative supplies and equipment shipped in support of such programs. In no case shall such supplies include items for the personal use of representatives of the registered agency.

(d) "Agency" or "agencies" means the American Red Cross and any United States voluntary non-profit relief agency registered with and approved by the Committee.

(e) "Duty free" means exempt from all customs duties, and other duties, tolls, and taxes of any kind.

(f) "Recipient country" means any country or area in which voluntary non-profit relief agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid have programs approved by AID.

(g) "Reimbursement" means (1) payment directly to an agency by AID, or (2) payment to an agency by a banking institution in the United States acting under letter of commitment issued by AID guaranteeing subsequent reimbursement to the banking institution of such payment.

(h) "Port of entry" means an ocean port in the recipient country.

(i) "Point of entry" means the first customs point, or any otherwise designated point in a recipient country which receives imported commodities via an ocean port not located in the recipient country.

§ 202.2 Shipments eligible for reimbursement of freight charges.

(a) In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation in nations or areas designated by the Administrator of AID from time to time, agencies may be reimbursed by AID within specified limitations for freight charges incurred and paid in transporting supplies donated to or purchased by such agencies from United States ports or, in the case of excess or surplus property supplied by the United States, from foreign ports to ports of entry in the recipient country or to points of entry in the recipient country in cases (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specified country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

(b) Shipments shall be eligible for reimbursement of freight charges only as

authorized by the issuance by AID of a Procurement Authorization (Form AID 1160–4).

(c) The Office of Commodity Management, Bureau for Program and Management Services, AID, shall be responsible for determining when carriers are "unavailable."

§ 202.3 Freight reimbursement limitations.

Economic utilization of AID funds available for reimbursement to agencies for freight charges incurred and paid by such agencies for the shipment of donated or purchased supplies to a recipient country requires the following limitations on amounts reimbursable:

(a) *Ocean freight.* The amount of ocean freight charges reimbursable to an agency is limited to the actual cost of transportation of the supplies as assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract at a rate not exceeding the prevailing rate, if any, for similar freight services, or the rate paid to the supplier of ocean transportation for similar services by other customers similarly situated, as attested to by the supplier in Block 13 of Form AID 1550–1, entitled "Voluntary Agency and Carrier Certificate." (See § 202.4(a).)

(b) *Inland freight.* The amount of inland freight charges reimbursable to an agency is limited to the actual cost of transportation of supplies from pickup point in initial port of discharge to designated point of entry in the recipient country at a rate negotiated by the agency representative as attested to by such agency representative in Block 14 of Form AID 1550–1, entitled "Voluntary Agency and Carrier Certificate." (See § 202.4(b).)

(c) *Related shipping costs.* Where inland freight charges are reimbursed, expenses incurred in transferring supplies from ocean carrier to inland carrier may be reimbursed to the agency when such expenses are not for account of the ship nor included in the inland transportation charges.

§ 202.4 Certificates.

Certificates will be required as follows:

(a) *Ocean transportation.* The supplier of ocean transportation will execute Form AID 1550–1, entitled "Voluntary Agency and Carrier Certificate," in an original and two copies.

(b) *Inland transportation and related shipping costs.* Where inland transportation, including related shipping costs, is reimbursable under provisions of § 202.3, the representative of the agency will execute Form AID 1550–1, entitled "Voluntary Agency and Carrier Certificate," in an original and two copies when, in the absence of published tariffs or a prevailing rate, it is necessary to negotiate for the shipment of the supplies.

§ 202.5 Approval of programs, projects and services.

(a) Prior to applying for reimbursement for freight charges, an agency must obtain AID's written approval of its programs by submitting the following information to the Chief, Public Liaison Division, Office of Private and Voluntary Cooperation, Bureau for Private and Development Cooperation, Agency for International Development, Department of State, Washington, D.C. 20523.

(1) A narrative description detailing the agency's specific country programs, objectives, projects, or services of relief, rehabilitation, disaster assistance, development assistance and welfare;

(2) Except as provided for in paragraph (b) of this section, evidence that written assurances have been obtained from the government of the recipient country that:

(i) Appropriate facilities are or will be afforded for the necessary and economical operations of the program, project, or service;

(ii) The specific program, project, or service has been accepted;

(iii) The supplies provided in support of the program, project or service will be free of customs duties, other duties, tolls and taxes;

(iv) The supplies will be treated as a supplementary resource;

(v) The supplies will be identified, to the extent practicable, as being of United States origin; and

(vi) Insofar as practicable, the supplies will be received, unloaded, warehoused, and transported cost-free to points of distribution;

(3) Evidence that:

(i) Shipments will be made only to consignees reported to AID, and full responsibility is assumed by the agency for the noncommercial distribution of the supplies free of cost to the persons ultimately receiving them, or in special cases and following notice to AID, for the sale to recipients at nominal cost or as payment for work performed to promote projects of self-help and economic development, but in no case shall supplies be withheld from needy persons because of their inability to pay or work; and

(ii) Distribution is made solely on the basis of need without regard to race, color, religion, sex or national origin;

(iii) That paragraph (a)(3)(i) and (ii) of this section are conducted under the supervision of the agency's representative specifically charged with responsibility for the program or project.

(b) Compliance with paragraph (a)(2) of this section is not required when the specific program, project, or service is within the scope of any agreement that has been concluded between the U.S. Government and the Government of the recipient country which furthers the operations of an agency acceptable to the recipient country.

(c) On approval of the agency's programs written notice thereof will be issued by AID to the agency.

§ 202.6 Application for reimbursement of freight charges.

(a) Any agency may make application for reimbursement of freight charges incurred and paid on shipments eligible under § 202.2 provided:

(1) The agency has received AID's written approval of the programs, projects, and services in accordance with §202.5.

(2) The application for reimbursement of freight charges together with documentation required under § 202.7 is submitted to the Agency for International Development, Attention: Banking and Finance Division, Office of Financial Management, Washington, D.C. 20523, or to a U.S. bank holding an AID letter of commitment.

(b) In the case of ocean transportation, the application must be submitted within 60 days of the date of the related ocean bill of lading. In the case of inland transportation the application must be submitted within 180 days of the date of the related ocean bill of lading.

§ 202.7 Documentation required for reimbursement.

Claims for reimbursement of freight charges must be supported by the following documents:

(a) *Voucher SF 1034.* "Public Voucher for Purchases and Services Other than Personal"—Voucher SF 1034 in original and three copies to be prepared by the agency requesting reimbursement of freight charges.

(b) *Bills of lading—*

(1) *To ports of entry.* Where the shipment is made to a port of entry, ocean or charter party bill of lading (or photostat) evidencing shipment from an eligible port of export as prescribed in § 202.2(a) to the port of entry. The bill of lading shall indicate the carrier's complete statement of charges including all relevant weights, cubic

measurements, rates, and any applicable tariff surcharges.

(2) *To points of entry.* (i) Where the shipment is made to a point of entry and through bills of lading to designated point of entry are not issued, an ocean or charter party bill of lading (or photostat) evidencing shipment from an eligible port of export as precribed in § 202.2(a) to the port of discharge, and a receipted copy of the rail, truck, or barge bills of lading (or other acceptable commercial document) covering the transportation of the supplies from the ocean carrier's point of delivery at port of discharge to point of entry in recipient country, correctly assessed at time of loading by the land carrier for freight on a weight, measurement, or unit basis to point of entry in recipient country and from point of entry to point of delivery in the recipient country. The bill of lading shall indicate the carrier's complete statement of charges including all relevant weights, cubic measurements, rates and any applicable tariff surcharges.

(ii) Where shipment is made to point of entry and through bills of lading are issued, a receipted copy of the through bill of lading evidencing shipment from an eligible port of export as prescribed in § 202.2(a) to point of entry in the recipient country. The bill of lading shall include the carrier's complete statement of charges including all relevant weights, cubic measurements, rates, and any applicable tariff surcharges.

(c) *Receipted invoices.* One copy (or photostat) of the detailed invoice of the supplier of the transportation evidencing payment by the agency to the carrier. If the bills of lading required by paragraph (b) of this section meet the requirements of this subparagraph, no invoice is required.

(d) *Voluntary Agency and Carrier Certificate, Form AID 1550–1.* (i) As provided in § 202.4(a), the original and two copies of the Voluntary Agency and Carrier Certificate executed by the supplier of ocean transportation, and

(ii) As provided in § 202.4(b), the original and two copies of the Voluntary Agency and Carrier Certificate executed by the Agency.

§ 202.8 Refund by suppliers and/or agencies.

(a) *By suppliers.* Any supplier of freight to whom freight charges have been financed by AID will promptly refund to AID upon demand the entire amount, or any lesser amount specified, of such freight charges determined by AID to be in excess of the prevailing rate at time of shipment, if any, or the rate paid the supplier for similar services by other customers similarly situated.

(b) *By agencies.* Any agency to which freight charges have been paid or reimbursed under this Regulation will promptly refund to AID upon demand the entire amount, or any lesser amount specified, of inland transportation and/or related shipping costs, (1) whenever AID determines that the reimbursements were improper as being in violation of the provisions of the Foreign Assistance Act of 1961, and relevant appropriation acts, or any rules, regulations, or procedures of AID promulgated under any of these acts, or (2) whenever it is determined by the agency or AID that any of the supplies for which reimbursement was made have not been accorded duty-free status by the recipient country.

§ 202.9 Waiver authority.

The Administrator may waive, withdraw, or amend from time to time any or all of the provisions of this part.

The revised regulation shall be effective August 1, 1979.

Robert H. Nooter,

Acting Administrator, Agency for International Development.

[FR Doc. 79–21984 Filed 7–16–79; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standards; Occupational Exposure to Chlorine; Lifting of Administrative Stay

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Lifting of Administrative Stay of Final Rule.

SUMMARY: This notice reinstates the 1 ppm ceiling exposure limit for chlorine (Table Z–1 of 29 CFR 1910.1000). After careful evaluation of the comments submitted in response to the **Federal Register** notice of February 6, 1979 (44 FR 7140) which stayed the 1 ppm ceiling exposure limit for chlorine, OSHA has concluded that a permanent suspension of the ceiling limit is unwarranted and that the stay issued on that date should be lifted.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Flo H. Ryer, Director, Office of Special Standards Programs, Room N–3663, Occupational Safety and Health Administration, Third Street and Constitution Avenue, NW., Washington, D.C. 20210 (202–523–7174).

SUPPLEMENTARY INFORMATION: On December 8, 1978, the Occupational Safety and Health Administration (OSHA) published a final rule in the **Federal Register** which corrected a number of errors and omissions in the tables of exposure limits for airborne contaminants contained in 29 CFR 1910.1000, Tables Z–1, Z–2, and Z–3 (43 FR 57601). Included in the corrections was the insertion of a "C", designating a ceiling limit, in front of the listing for chlorine in Table Z–1 (correction number 4, 43 FR 57603). This action corrected the permissible exposure limit for chlorine from 1 part chlorine per million parts of air (1 ppm) as an eight-hour time weighted average (TWA) to a ceiling exposure limit of 1 ppm.

On February 6, 1979, OSHA administratively stayed the correction of the permissible exposure limit for chlorine (44 FR 7140, 7141). Thirty written comments were received in response to the administrative stay and request for comments and information. These comments addressed the following issues:

(1) Whether OSHA adopted a ceiling or a TWA permissible exposure limit for chlorine under section 6(a) of the Act;

(2) the documentation used to support the exposure limit recommended by NIOSH.

A discussion of these issues is presented in the following section.

1. The exposure limits listed for substances in Table Z–1 of 29 CFR 1910.1000 were originally adopted under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 *et seq.).* These Walsh-Healey safety and health standards incorporated by reference the Threshold Limit Values (TLVs) of Airborne Contaminants for 1968 of the American Conference of Governmental Industrial Hygienists (ACGIH), published at 34 FR 7946, 7953, May 20, 1969, and codified in 41 CFR 50–204.50. The Secretary of Labor determined that these Walsh-Healey standards were "established Federal standards" within the meaning of section 3(10) of the Occupational Safety and Health Act of 1970 (the Act) and therefore adopted them as OSHA standards under section 6(a) of the Act (36 FR 10466, 10504, May 29, 1971). See 29 CFR 1910.1499.

As stated above, the 1968 ACGIH threshold limit values were merely incorporated by reference in the Walsh-Healey standards. In adopting these established Federal standards, OSHA

decided to transcribe the material incorporated by reference, specifically listing the substances and their exposure limits in order to make it easier for employers and employees to have quick access to this information. The May 29, 1971 printing, however, incorrectly listed the 1970 ACGIH threshold limit values rather than the 1968 ACGIH threshold limit values which were incorporated in the Walsh-Healey standards. This error was partially corrected by a subsequent **Federal Register** document which printed the 1968 values (36 FR 15101, August 13, 1971). In the transcription several errors occurred; for example, the notation "C", designating a ceiling exposure limit for chlorine was omitted.

Comments submitted by interested labor unions (e.g., comment nos. 13 and 17) contended that the OSHA standard for exposure to chlorine must conform to the established Federal standards adopted by OSHA in 1971. Comments submitted by commercial interests (e.g., comment nos. 2, 7, and 15) stated that the 1 ppm TWA value for chlorine is appropriate because this value was accepted by ACGIH in 1970 and served as the basis for the present OSHA standard.

The source of standards section, found at 29 CFR 1910.1499 (formerly 29 CFR 1910.99) indicates that standards promulgated under the Walsh-Healey Act are the basis for the values listed in Table Z–1. The Walsh-Healey standards incorporated the 1968 ACGIH TLVs which in the case of chlorine was a ceiling of 1 ppm. This was the established federal standard which OSHA intended to adopt under section 6(a) of the Act. The December 8 correction merely conformed the listing for chlorine with that in the source document.

2. Several comments (e.g., comment nos. 6, 7, 15 and 19) addressed the NIOSH recommendations and the supporting documentation in the criteria document. These comments alleged serious deficiencies in the data supporting the NIOSH recommended level of worker exposure to chlorine. In view of these assertions, OSHA will continue to evaluate all comments concerning the recommendations made by NIOSH in the criteria document and additional documentation as it becomes available before deciding whether to issue a proposed rule to amend the chlorine standard.

Based upon evaluation of the comments and information submitted in response to the February 6 notice, the Assistant Secretary has concluded that the 1 ppm ceiling limit contained in the December 8, 1978 correction document should be reinstated as the proper permissible exposure limit for chlorine at this time. Therefore the administrative stay of the permissible exposure limit for chlorine is hereby rescinded and the 1 ppm ceiling limit is reinstated. A ninety day delayed effective date is deemed appropriate in this instance. To the extent that some employers may have relied on the permissible exposure level for chlorine being a TWA of 1 ppm, this extra time will permit them to come into compliance with the corrected permissible exposure level. Therefore, this action will become effective on October 15, 1979.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

(Sec. 6, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655), 29 CFR Part 1911; Secretary of Labor Order No. 8–76 (41 FR 25059).)

Signed at Washington, D.C. this 11th day of July, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79–22038 Filed 7–16–79; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1952

Approval of Supplements to the Puerto Rico Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration approves the Spanish and English versions of the posters for the private and public sectors, in accordance with 29 CFR Part 1953, Subpart B, as a completed developmental step for the Puerto Rico State Plan. These posters contain information for both the private and public sectors for employers and employees to inform them of their rights under the Puerto Rico Act.

EFFECTIVE DATE: July 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mabel Stanton, Project Officer, Department of Labor, Occupational Safety and Health Administration, 2100 M Street NW., Room 149, Washington, D.C. 20210.

A copy of this supplement, along with the approved plan, may be inspected and copied during normal business hours at the address above and the following locations:

Office of the Regional Administrator, Occupational Safety and Health Administration, 1515 Broadway, Room 3445, New York, N.Y. 10036.

Department of Labor, Occupational Safety and Health Office, 414 Barbosa Avenue, San Juan, Puerto Rico 00917.

SUPPLEMENTARY INFORMATION:

Background

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

Description of Supplement

Posters. The Puerto Rico safety and health poster for private employees contains, among other things, provisions notifying employees of their obligations and protections under the Puerto Rico occupational safety and health legislation; their right to request inspections, and their right to remain anonymous as a result; their right to participate in inspections; their protection against discharge or discrimination under both Federal and State laws; and their right to file complaints about the administration of the State program with the Occupational Safety and Health Administration. The poster also contains provisions for sanctions and for prompt notice to employers and employees when alleged violations occur.

The poster for the public sector is essentially the same except that it does not contain provisions for submission of discharge or discrimination complaints to the Occupational Safety and Health Administration, since the definition of "employer" under the Federal Act excludes public employers. It also does not contain provisions for monetary sanctions.

Public Participation

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), may prescribe alternative

procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Puerto Rico plan supplement described above is consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Puerto Rico plan supplement described above is hereby approved under Subpart B of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart FF of 29 CFR Part 1953 is hereby amended to reflect this approved plan change. Accordingly, a new § 1952.384 is added to Subpart FF to read as follows:

§ 1952.384 Completed developmental steps.

In accordance with the requirements of § 1952.10, Puerto Rico's safety and health posters for private and public employees were approved by the Assistant Secretary, on July 2, 1979.

Signed at Washington, D.C., this 2nd day of July 1979.

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

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-21967 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1273-3]

Approval and Revision of the Pennsylvania Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of amendments to the Commonwealth of Pennsylvania's Air Resources Regulations as a revision of Pennsylvania's State Implementation Plan (SIP), pursuant to Section 110 of the Clean Air Act, 42 U.S.C. 7410. The purpose of the amendments is to establish a program for more effectively controlling particulate air contaminant emissions from coke oven batteries. The proposed revisions affect the following rules and regulations of the Pennsylvania Department of Environmental Resources (DER): Chapter 121 (relating to general provisions); Chapter 123 (relating to standards for contaminants); Chapter 127 (relating to construction, modification, reactivation, and operation of sources); Chapter 129 (relating to standards for sources) and Chapter 139 (relating to sampling and testing).

EFFECTIVE DATE: August 16, 1979.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Patricia Sheridan.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, P.O. Box 2063, Harrisburg, Pennsylvania 17120, Attn: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215/597-2745.

SUPPLEMENTARY INFORMATION:

I. Background

On June 30, 1978, DER submitted to the Regional Administrator, Region III, amendments to Pennsylvania's Air Resources Regulations designed to regulate particulate emissions from coke ovens, and requested that they be reviewed and processed as a revision of Pennsylvania's State Implementation Plan (SIP).

Appropriate public hearings on the proposed amendments were held on April 5, 1977 in Norristown, Pennsylvania; on April 7, 1977 in Pittsburgh, Pennsylvania, and on April 12, 1977 in Harrisburg, Pennsylvania in accordance with 40 CFR 51.4.

Prior to these amendments, DER had no regulations pertaining uniquely to the control of particulate emissions from coke oven batteries. Control of particulate emissions from coke batteries was based on the application of regulations containing general limitations on visible emissions from any source and a general mass loading limitation that was applied to coke battery waste heat stacks. The new regulations contain emission limitations for individual coke battery operations that are designed specifically for those operations. Accordingly, the new regulations are intended to be more easily administered and enforced than the current federally-approved SIP regulations.

The following summarizes the key provisions of the new regulations for coke oven batteries:

(1) Coke pushing operation—Requires that the coke pushing operation must be enclosed and that any air cleaning device is designed to reduce fugitive emissions to the minimum attainable through the use of the "best available technology."

(2) Charging operation—

a. Open charging—At no time shall the aggregated time of visible open charging emissions during any four consecutive charges equal more than 75 seconds.

b. Closed charging—At no time shall there be closed charging emissions during more than one charge out of any ten consecutive charges.

(3) Door emissions and leakages—

a. At no time shall door area emissions from any coke oven exceed 40% opacity, 15 minutes or longer after the last charge to that oven.

b. At no time shall there be any visible door area emissions from more than 10% of the door areas of operating coke ovens, excluding the two door areas representing the last oven charged on any battery and any door areas obstructed from view.

(4) Topside Emissions—

a. At no time shall there be visible topside emissions from more than 2.0% of the charging port seals on operating coke ovens in any battery, excluding visible emissions from no more than three ovens which may be dampered off.

b. At no time shall there be topside emissions from more than 5.0% of the offtake piping on operating coke ovens in any battery, excluding visible emissions from open standpipe caps on no more than three ovens which may be dampered off.

c. At no time shall there be any topside emissions from any point on the topside other than allowed emissions from charging port seals and offtake piping pursuant to items a. and b. above.

d. At no time shall there be any visible emissions from the coke oven gas collector mains.

The revised regulations also establish measuring and recording techniques, equations for determining compliance,

and self-monitoring and reporting requirements for coke oven operators. However, an explicit procedure for evaluating the intermittent visible fugitive emissions from pushing control systems was not included. EPA believes that an explicit procedure is necessary to ensure the enforceability of these regulations. Consequently, DER is urged to adopt a procedure for evaluating visible fugitive emissions from the coke pushing operation prior to the submittal of its final nonattainment plan required under Sections 110 and 172 of the Clean Air Act as amended. The regulations also provide a mechanism for sources to petition for a deferred compliance schedule to achieve compliance with the proposed emission limitations. Compliance with the emission limitations must be achieved as expeditiously as possible, but in no event later than December 31, 1979.

On December 5, 1978 (43 FR 56910), the Regional Administrator proposed the amendments to DER's regulations as a revision to the Pennsylvania SIP and provided for a 30-day comment period ending January 4, 1979.

II. Public Comments

In the notice of proposed rulemaking, EPA solicited comments on the amendments to Pennsylvania's Air Resources Regulations with particular emphasis on three provisions. The first two provisions raise issues as to whether or not either or both of two actions which DER may take under the new regulations become Federal law without having to be submitted to EPA as additional SIP revisions. The actions are: (1) The issuance of a deferred compliance schedule under the new section 127.42 and, (2) the determination, under subsection 129.15(c), that opacity levels in excess of 20% have no significant air quality impact. The question of whether or not EPA has the responsibility and authority to act independently under these sections was also raised. The third issue dealt with a potential misinterpretation of subsection 129.15(a) relating to the time during which pushing emissions must be enclosed.

EPA Region III received three sets of comments during the public comment period: one from the Pennsylvania DER, one from the Bethlehem Steel Corporation, and one from the United States Steel Corporation.

DER commented that EPA had pointed out an inadvertent error in subsection 129.15(a), *i.e.*, that this subsection should refer to 129.15(c) and (e), not 129.15(c) and (d) as originally proposed. This clarification answers the third question raised by EPA . EPA interprets this section consistent with the above representations, and DER is urged to revise the references in the regulation at the earliest opportunity to forestall any future problems of interpretation.

The general thrust of the other public comments is that DER does not have to submit as SIP revisions actions (1) and (2) discussed above and that EPA does not have the authority or responsibility to approve or disapprove those actions as future SIP revisions. DER stated that a regulation in its existing SIP, subsection 123.1(a)(9), allows it to make determinations of minor significance without submitting the actions as a SIP revision and thus its actions under subsection 129.15(c) also do not have to be submitted as SIP revisions. In addition, U.S. Steel submitted extensive comments to the effect that the regulations are unnecessary and not consistently achievable.

Detailed responses to these comments can be found in the Rationale Document prepared by EPA and which is available at the addresses listed above. To summarize EPA's findings, the above-mentioned amendments to Pennsylvania's Air Resources Regulations are approvable subject to the following conditions, interpretations and comments.

1. Any determination of minor significance under sections 123.1(a)(9) (relating to fugitive emissions) and 129.15(c) (relating to coke pushing operations) and establishment of a deferred compliance schedule under section 127.42 (relating to coke oven abatement plans) shall not take effect as a matter of federal law unless it is submitted to and approved by EPA as a SIP revision.

The basic reason for this requirement is that these actions were not expressly contemplated in the air quality demonstrations submitted by DER, in support of the former requirements on March 17, 1972 and in support of the new provisions on June 30, 1978. EPA realizes that under sections 123.1(a)(9) and 129.15(c) DER may not make a minor significance determination unless it finds that emissions from the source in question will not interfere with attainment and maintenance of the national ambient air quality standards. Moreover, DER may not establish a deferred compliance schedule under section 127.42 unless it finds that coke oven battery emissions will not present a substantial risk of endangering the public health and welfare. However, EPA has an independent responsibility under Section 110 of the Clean Air Act to determine whether or not emissions limitations are sufficient to ensure attainment and maintenance of national ambient air quality standards. While the exercise of DER's discretion is, of course, binding for purposes of State enforcement, it is not binding on EPA for purposes of Federal enforcement unless approved by EPA as a SIP revision.

These three sections expressly provide that minor significance determinations and deferred compliance schedule establishments shall be made by DER. These sections do not provide, nor is it necessary that they do provide, that such determinations or establishments may also be made by EPA. Accordingly, EPA does not have authority to make such determinations or establishments.

2. With respect to U.S. Steel's comments challenging the necessity and consistent achievability of the new regulations, it is EPA's policy to encourage and assist States in using economically efficient pollution control methods. However, the Agency has no authority under the Clean Air Act to reject a requirement adopted by a State because it is too costly or too stringent. ("Stringency" refers to both the controls required and how quickly they must be implemented). In *Union Electric* v. *EPA*, 427 U.S. 246 (1976), the Supreme Court held that the Administrator "shall approve" a SIP if it satisfies the criteria of Section 110(a)(2) of the Clean Air Act (42 U.S.C. 7401), and that the Administrator may not consider its economic or technological feasibility.

Even though EPA did not include considerations of necessity and achievability in its decision regarding the approvability of the new regulations, it disagrees with U.S. Steel's comments, and it believes that the new regulations are both necessary and consistently achievable. (Further details can be found in the above-mentioned Rationale Document.)

III. Approvability of the Proposed Revision

A request for a revision of a SIP must be approved by the Administrator if the revision meets the requirements of Section 110 of the Clean Air Act and of EPA's regulations, 40 CFR Part 51. The basic substantive requirement for approval of this SIP revision is that it not interfere with the attainment and maintenance of the national ambient air quality standards. The DER demonstrated that the new provisions are at least as stringent as the former requirements. This showing of equal or greater stringency is sufficient, in lieu of a complete air quality modeling

exercise, to approve the new regulations. (These regulations do not purport to be submitted in satisfaction of an overall attainment plan and control strategy demonstration pursuant to Section 172 of the Clean Air Act, 42 U.S.C. 7672.)

Therefore, the Administrator approves the amendments to Chapters 121, 123, 127, and 139 of Pennsylvania's Air Resources Regulations, subject to the above-mentioned conditions, interpretations, and comments, as a revision of Pennsylvania's State Implementation Plan, effective August 16, 1979. Concurrently, the Administrator amends 40 CFR 52.2020 (Identification of Plan) of Subpart NN (Pennsylvania) to incorporate this plan revision into Pennsylvania's SIP.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations ' specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–7642 et seq.)

Dated: July 6, 1979.

Barbara Blum,

Acting Administrator.

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

1. In § 52.2020 paragraph (c) (17) is added to read as follows:

Subpart NN—Pennsylvania

§ 52.2020 Identification of Plan.

* * * * *

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

* * *

(17) Amendments to Chapters 121 (§ 121.1), 123 (§§ 123.1, 123.13, 123.44), 127 (§§ 127.41 through 127.52, inclusive), 129 (§§ 129.15 and 129.16), and 139 (§§ 139.51, 139.52, 139.53 and 139.61), dealing with the control of coke oven battery operations; submitted on June 30, 1978 by the Pennsylvania Department of Environmental Resources.

[FR Doc. 79–21980 Filed 7–16–79; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 51]

Telecommunication Acquisitions; Temporary Regulation

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation sets forth contracting policies and procedures covering telecommunications; i.e., services, systems, facilities, and equipment within the Federal Government. It has been the general practice of Federal agencies to procure telecommunications from franchised common carriers; however, with the growth of the communication industry in competition with these carriers, more procurements are being made competitively. This temporary regulation will provide for the orderly procurement of telecommunications.

DATES: Effective date: September 17, 1979. Expiration date: August 31, 1981. Comments due on or before: October 15, 1979.

ADDRESS: Comments should be addressed to: General Services Administration (APR), ATTN: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Robert R. Johnson, Procurement Policy and Regulations Branch (CPEP), 202–566–0834. (Sec. 205(c), 63 Stat 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

[Federal Procurement Reg. Temporary Reg. 51]

To: Heads of Federal agencies.

Subject: Telecommunication acquisitions.

1. *Purpose.* This regulation prescribes procurement procedures applicable to Government-wide telecommunication services, systems, facilities, and equipment.

2. *Effective date.* This regulation is effective September 17, 1979.

3. *Expiration date.* This regulation expires on August 31, 1981.

4. *Background.* It has been the general practice of Government agencies to procure telecommunication services and equipment primarily from franchised common carriers. However, with the growth of the communication industry in competition with these carriers, more procurements are being made competitively. To facilitate these competitive acquisitions, this temporary regulation sets forth acquisition policies and procedures covering telecommunication services, systems, facilities, and equipment within the Federal Government.

5. *Explanation of change.* New Subpart 1–4.12, Telecommunications, is added to Part 1–4 as follows:

Subpart 1–4.12—Telecommunications

§ 1–4.1200 Scope. This subpart prescribes policies and procedures concerning the procurement of telecommunication services, systems, facilities, and equipment by Federal agencies. Management guidance related to telecommunication requirements and operations and the utilization of the Federal Telecommunications System (FTS) are contained in the Federal Property Management Regulations (FPMR) in Part 101–37.

§ 1–4.1201 Definitions. The definitions listed below are applicable to this Subpart 1–4.12.

§ 1–4.1201–1 Functional telecommunication system specifications. "Functional telecommunication system specifications" means: (a) The delineation of the requirements that the system is intended to satisfy and (b) the assumptions and facts underlying the requirements. The actual specification depends on the type of system to be procured; e.g., voice system, data system, or data service.

§ 1–4.1201–2 Selection plan. "Selection plan" means criteria and systematic procedures established to enable the Government to measure the proposal or bid of an offeror or bidder against the requirements of the Government as set forth in the solicitation document. These criteria and procedures shall be based on the Government's requirements and shall not be equipment or vendor oriented.

§ 1–4.1201–3 Systems or items life. "Systems or items life" means a forecast or projection of the period of time which begins with the installation of the systems or items and ends when the need for those systems or items has terminated. Systems or items life is established by the agency on the basis of its requirements and as set forth in the solicitation. Systems or items life is not synonymous with the actual life of the equipment (system or facility).

§ 1–4.1201–4 Lowest overall cost. "Lowest overall cost" means the least expenditure of funds over the systems or items life, price and other factors considered. Lowest overall costs shall include, but shall not be limited to, such elements as personnel, purchase price or rentals, maintenance, site preparation and installation, programing, and training.

§ 1–4.1201–5 Comparative cost analysis. "Comparative costs analysis" means a cost analysis procedure that considers the present value of money to be used in the acquisition of the requirement, computed in accordance with OMB Circular A–94, and includes all costs over the system's life.

§ 1–4.1202 Telecommunication requirements. Agency telecommunication requirements shall be submitted to the General Services Administration (GSA) in accordance with procedures outlined in the FPMR (Subpart 101–37.2) unless the agency

requirement is exempt under those provisions. If the agency requirement is exempt or if GSA determines that the agency telecommunication requirement cannot be met by the FTS or by a GSA procurement under § 1–4.1202–1, agencies may contract to satisfy the requirement and shall follow the procedures specified in § 1–4.1202–2.

§ 1–4.1202–1 GSA action. GSA will assess the efficiency, service, and cost of using the FTS and other common user services or systems. If GSA determines that it is in the best interest of the Government to use common user systems, GSA will make the necessary arrangements. GSA will document the file to show the basis for the determination, with primary emphasis on cost considerations. GSA also may elect to provide telecommunications on behalf of the agency where it determines that this action is economical and in the interest of the Government.

§ 1–4.1202–2 Agency action. (a) *Competition.* (1) Federal agencies shall obtain competition to the extent that it is available and to the maximum extent practicable in all telecommunication acquisitions.

(2) The procurement policies and procedures applicable to the agency shall be followed.

(3) Functional telecommunication system specifications shall be used where possible. Agency telecommunications shall not be limited to tariff descriptions. Requirements shall be set forth in a manner that will afford both tariff and nontariff suppliers opportunities to compete.

(4) The fact that a tariffed carrier can provide the required service and/or equipment does not by itself constitute justification to order from the tariffed carrier.

(5) A major item in the competitive process is the solicitation package. Section 1–4.1203 provides information concerning the solicitation.

(b) *Sole source.* When the agency determines, after assessing the availability of competition, that some or all of the needed equipment or services are available from only one source of supply, documentation supporting the sole source acquisition, in accordance with applicable procurement regulations, shall be prepared and retained in the agency's file. If the services and equipment acquired have a systems life cost of more than $100,000, a copy of the agency's sole source documentation shall be provided to the General Services Administration (CDSR), Washington, DC 20405. GSA will use this information for acquisition planning purposes.

Note.—See § 1–4.1205 for agency use of GSA supply schedules.

§ 1–4.1203 Solicitations. Agencies shall prepare solicitations in accordance with Parts 1–2 or 1–3, as applicable, and this § 1–4.1203. Upon request, GSA also will provide assistance in developing solicitation packages and/or will help agencies in the solicitation process. Section 1–4.1204 provides detailed guidelines for agencies when GSA performs the contracting on behalf of an agency. GSA has developed a model solicitation package for PBX systems that is available to Federal agencies upon request from the General Services Administration (CDSR), Washington, DC 20405. Solicitations and resultant contracts shall be based on the following:

(a) The method of contracting for telecommunication requirements shall be determined after consideration of the relative merits of the alternative methods available; i.e., purchase, lease, or lease-with-option-to-purchase. A comparative cost analysis of the alternative methods shall be performed to determine which method provides the Government with the lowest overall cost over the total systems life. Particular attention in the cost analysis should be given to two-tier pricing mechanisms where recovery of facilities and equipment capital investment is treated in a different manner than the labor intensive elements of the price.

(b) The solicitation shall identify all evaluation factors that are to be considered. It shall include mandatory requirements and, where applicable, desirable features. If desirable features (see § 1–4.1102–13 for definition) are included, relative weights (expressed in dollar values, points, or any other reasonable indicators that describe the relative importance) shall be assigned to these features.

(c) To assist agency personnel in reviewing proposals, the contracting office shall prepare a selection plan prior to issuing the solicitation.

§ 1–4.1204 System acquisition by GSA. This section applies when GSA performs a system acquisition on behalf of an agency.

§ 1–4.1204–1 Agency responsibilities. The requiring agency shall:

(a) Prepare the documentation using criteria discussed in § 1–4.1203;

(b) Prepare or assist GSA in the preparation of the techincal portion of the solicitation document;

(c) Provide technical and contracting personnel, as required, to be members of the procurement team;

(d) Prepare or assist GSA in the preparation of the selection plan and submit it to the contracting officer prior to the issuance of the solicitation documents;

(e) Assist GSA in the technical evaluation of proposals;

(f) Provide GSA with copies of all correspondence between the agency and offerors;

(g) Assist GSA in performing the economic evaluation of proposals;

(h) Assist in writing the determination and findings, or provide a sole source justification when necessary;

(i) Provide GSA with administrative information; e.g., financial data (paying office, fund citation, etc.), contract distribution list, and name of agency contracting officer;

(j) Participate in the negotiation;

(k) Assist GSA in debriefing offerors, if necessary;

(l) Place the delivery order, if applicable; and

(m) Administer the contract when it is transferred to the agency.

§ 1–4.1204–2 GSA responsibilities. As necessary for the specific procurement, GSA will:

(a) Form the procurement team, including technical, contracting, and economic analysis personnel. If the agency does not have qualified technical personnel, GSA will prepare the technical portion of the solicitation document;

(b) Prepare the solicitation document;

(c) Act as the point of contact between the Government and offerors, including the execution or approval of all correspondence between the Government and any offerors, receiving proposals from offerors, and providing copies of all offers to the agency;

(d) Perform the economic evaluation of proposals;

(e) Participate in the technical evaluation of proposals;

(f) Perform evaluations, including attendance at demonstrations, to determine the technical capability of the items offered;

(g) Conduct negotiations, as necessary, notify offerors when proposals are unacceptable, and prepare determinations and findings, as necessary;

(h) Ensure that the agency is informed of all procurement activities, including the reporting of results of negotiations and providing draft copies of the contract to the agency;

(i) Award and distribute the contract, including the transmission of all pertinent documents to the successor contracting officer appointed by the agency; and

(j) Debrief offerors, as necessary.

§ 1–4.1205 GSA supply schedules. GSA provides schedule contracts that are sources for some telecommunication equipment purchases, rental, maintenance, and spare parts. These contracts may provide the most economical and efficient method of procurement for satisfying the user's requirement. These schedule contracts contain varying terms and conditions (including some mandatory usage provisions), therefore, particular attention to their proper use shall be ascertained before acquiring equipment to satisfy the user's requirement.

§ 1–4.1206 GSA-provided service through the FTS. When GSA provides local telephone and/or intercity telephone services to Federal agencies, GSA will assume the responsibility of meeting all agency requirements. Agencies shall notify GSA of any changes desired at these locations through the use of Standard Form (SF) 145. The SF 145 is generally sent to the local GSA supervisor at the serving location. (See the FPMR (§ 101–37.303).)

6. *Information and assistance.* Inquiries and requests for assistance should be directed to Mr. Robert R. Johnson, Procurement Policy and Regulations Branch (CPEP), telephone 202–566–0834.

7. *Solicitation of comments.* The views of agencies and other interested parties are invited regarding the effect or impact of this regulation and the policy and procedures that should be adopted in the future. All comments received on or before October 15, 1979, will be considered.

Dated: July 3, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-22006 Filed 7-16-79; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 51a

Maternal and Child Health and Crippled Children's Services; Disclosure of Ownership and Related Information

AGENCY: Public Health Service, HEW.

ACTION: Final Regulation.

SUMMARY: This regulation requires an entity (other than an individual practitioner or group of practitioners) which furnishes services reimbursable under the Maternal and Child Health and Crippled Children's Services (MCH–CC) Program to disclose to the appropriate State agency the names of persons who hold a specified ownership or control interest in the entity. It implements Section 3 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977.

EFFECTIVE DATE: These regulations are effective on July 17, 1979.

FOR FURTHER INFORMATION CONTACT: Ceilon R. Hill, Public Health Advisor, Office for Maternal and Child Health, Bureau of Community Health Services, Health Services Administration, Room 7–39, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: (301) 443–2170.

SUPPLEMENTARY INFORMATION: The Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, Pub. L. 95–142, added provisions to the Social Security Act which strengthen the Government's ability to detect fraudulent activities in title V, XVIII, XIX, and XX programs. Most of the amendments focus on titles XVIII (Medicare) and XIX (Medicaid). However, Section 3 of Pub. L. 95–142 enacted Section 1124 of the Social Security Act, which requires providers of items or services for which reimbursement may be claimed to disclose certain ownership information as a condition of participation, certification, or recertification in these programs. This section applies to title V (MCH–CC) and title XX (Social Services) as well as to the title XVIII and XIX programs. Therefore, it is necessary to amend the title V regulations (42 CFR Part 51a) to implement Section 3 of Pub. L. 95–142.

Elsewhere in this issue of the **Federal Register**, there appear regulations implementing section 3 for Medicare and Medicaid and for the title XX social services program. These regulations were developed cooperatively among the Office of Human Development Services, the Health Care Financing Administration, and the Public Health Service in order to achieve as much consistency as possible among the requirements being imposed on each of the programs. In order to avoid repetition, a comprehensive discussion of the common definitions and procedures is set forth in the preamble to the regulations for Medicare and Medicaid. This preamble, however, deals only with issues particularly germane to title V. Therefore, readers are encouraged to refer to the regulations for Medicare and Medicaid.

This regulation provides that title V disclosing entities (providers and fiscal agents) must furnish to the title V State agency full and complete information as to the identity of each person with an ownership or control interest in the entity or in any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest. In addition, the regulation requires that, to the extent the title V disclosing entity can obtain this information, it identify any other disclosing entity (participating in the Medicare, Medicaid, title V or title XX programs) in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest.

Each title V disclosing entity is required under this regulation to furnish the specified information to the title V State agency prior to approval by the State agency of any contract or agreement with that disclosing entity. The State agency will promptly forward this information to the Secretary. If a title V disclosing entity fails to supply the required information to the State agency, the State agency will (1) not approve or renew an agreement with that entity; and (2) terminate any existing agreement or contract with that entity.

Providers of items or services under Medicare and Medicaid, and of health related services under the title XX social services program, are all subject to the same disclosure requirements. Since almost all title V providers of items or services are also providers under at least one of the other programs, only a few title V providers are subject to additional requirements under this regulation. To eliminate some duplicative and repetitious requirements for this information, the regulation requires the title V State agencies to coordinate their information requirements, to the extent possible, with the State Medicaid agency.

A Notice of Proposed Rulemaking was published in the **Federal Register** on August 4, 1978 (43 FR 34717), and the public was invited to comment. No comments were received concerning the title V disclosure requirements. Comments concerning disclosure requirements for Medicare and Medicaid are discussed in detail in the preamble to the final regulations for those programs.

Accordingly, Subpart A of 42 CFR Part 51a is amended by adding a new § 51a.144, to read as set out below.

§ 51a.144 Disclosure of ownership and control information.

(a) The State plan shall require each title V disclosing entity to furnish to the State agency full and complete information as to:

(1) The name and address of each person with an ownership or control interest in the disclosing entity, or in any subcontractor in which the disclosing entity has direct or indirect ownership of 5 percent or more. If a disclosing entity reports more than one name under the provisions of this paragraph, and any two or more of the persons named are related to each other as spouse, parent, child, or sibling, it shall report this fact.

(2) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest to the extent that the disclosing entity can obtain this information by requesting it, in writing, from the person. Copies of all such requests, as well as any responses, must be kept on record and furnished to the Secretary upon request. When no reply is received in response to a request for information, the Secretary must be advised of such nonresponse.

(b) The information specified in paragraph (a) of this section must be furnished to the State agency prior to the approval by that agency of any contract or agreement under this subpart.

(c) The State agency must promptly furnish to the Secretary all information received in accordance with the requirements of paragraph (a) of this section.

(d) The State agency shall cooperate with the State Medicaid agency in order to avoid imposing duplicative or repetitious requirements for information on a disclosing entity.

(e) If a disclosing entity fails to furnish the information described in paragraph (a) of this section, the State agency shall not approve or renew an agreement or contract with that disclosing entity and shall terminate any existing agreement or contract with that disclosing entity.

(f) For purposes of this section:

"Disclosing entity" means an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Social Security Act.

"Other disclosing entity" means any other title V disclosing entity and any entity that does not participate in title V, but is required to disclose certain ownership and control information because of participation in any of the programs established under Titles XVIII, XIX, or XX of the Act. This includes:

(1) a provider of services, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in Section 1301(a) of the Public Health Service Act);

(2) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under an approved State Medicaid plan;

(3) a carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of part A or part B of Medicare, or both, or for purposes of a State Medicaid plan; and

(4) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services for which payment may be claimed by the entity under a State plan or program approved under Title XX of the Act.

"State agency" means the agency described in § 51a.101(b) from which the provider received reimbursement under this subpart.

All other terms have the same meaning as specified in § 455.101 of this title.

(Sections 1102 and 1124 of the Social Security Act; 42 U.S.C. 1302 and 1320a–3.)

(Catalog of Federal Domestic Assistance, Program No. 13.232, Maternal and Child Health Services.)

Dated: May 11, 1979.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary.

[FR Doc. 79–21828 Filed 7–16–79; 8:45 am]

BILLING CODE 4110–84–M

Health Care Financing Administration

42 CFR Parts 435 and 436

Eligibility in the States, the District of Columbia and Guam, Puerto Rico, and the Virgin Islands; State Residence Requirements

SUMMARY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation.

SUMMARY: This regulation revises the rules for determining State residence of applicants for, and recipients of Medicaid (title XIX of the Social Security Act). The changes are necessary because the current regulations (42 CFR 435.403, 436.403) do not specifically address the variety of situations that arise in residence determinations and have not been interpreted uniformly by States. The purpose of these more specific rules is to permit uniform application and to ensure that no otherwise eligible individual is denied Medicaid because no State recognizes him as a resident.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Elizabeth Barnes, 202–245–0534.

SUPPLEMENTARY INFORMATION:

Background

Under section 1902(b) of the Social Security Act, a State may restrict Medicaid eligibility to individuals who are residents of the State. The current regulations (42 CFR 435.403, 436.403) do not specifically address various situations that arise in determining residence and therefore have not been uniformly interpreted by States. The problem is particularly serious with respect to institutionalized persons who formerly lived in another State. Members of Congress, States, and recipient representatives have all requested clarification of the regulation to resolve disputes among States and between States and individuals.

HEW published a notice of proposed rule making revising the regulation on August 8, 1978, in the **Federal Register** (43 FR 35077). We received over fifty comments on the proposed regulation and carefully considered them in developing this final regulation. We have summarized the public comments and our responses at the end of this preamble.

Summary of Significant Changes

In the regulation as a whole, we have retained the principle of determining residence based on the concept of parental responsibility where that is appropriate, maintained compatibility with the AFDC program for persons otherwise linked to it in eligibility determinations, and applied the principle of intent to reside for persons capable of stating intent. However, we have revised several provisions of the proposed regulation either in response to public comment or as a result of further consideration. In addition to numerous clarifications, the revisions include the following significant policy changes:

Individuals receiving a State supplementary payment (SSP). There may be instances when a Medicaid applicant or recipient is receiving a mandatory or optional State supplementary payment (SSP). Since SSPs involve State dollars, and are paid by a State to its residents, it is logical that an individual who is receiving a SSP be considered a resident of the State paying the SSP. The final regulation makes this provision.

Residency requirements for the institutionalized vs. the non-institutionalized. The regulation as originally drafted did not differentiate between the institutionalized and non-institutionalized. However, the major problem concerning residency is with the former. For example, States with good institutions for long-term care face greatly increasing costs as individuals enter these States to obtain that care. In other cases, individuals in institutions are refused coverage by both the State where the facility is located and the State in which they previously lived.

Our goals are to ensure more equitable distribution among States of costs of expensive types of care and to protect those States offering high-quality institutional care against the cost of caring for an influx of individuals from States that do not provide adequate institutional care. At the same time we want to ensure that no individual finds himself without any State of residence for Medicaid purposes or is denied his constitutional right to travel freely among States. Thus, we have specified special rules for the institutionalized. In addition, we have revised the proposed regulations to reflect the fact that a legal guardian has responsibility equal to that

of a parent. Basically, the rules provide that—

For *any* person placed in an institution by a State, the residence will be the State making the placement.

For institutionalized blind or disabled persons under 21 and persons over 21 who became mentally incapable before 21, the residence will be that of the parent or legal guardian or, if there is none, the State where the person is living.

For institutionalized persons who became mentally incapable at or after 21, the residence is the State where the person was living when he became incapable of indicating intent. However, if this cannot be determined, the State of residence is the State where he was living when he was first determined incapable of indicating intent. For example, while living in California, a man becomes disabled, and perhaps mentally incapable as a result of an automobile accident. Subsequently, his family moves him to Oregon; a year later, he is placed in an institution in Washington. If it can be determined that he was incapable from the time of the accident in California, his State of residence would be California. If the exact time of origin of his incapability cannot be determined, his residence is where he was living when first determined incapable of indicating intent. Thus, under these conditions, if he was first determined to be incapable while living in Oregon, that would be his State of residence.

The rules for institutionalized mentally capable persons over 21 will be the same rules as those for any other capable person—physical presence with intent to remain.

We also amended the proposed regulation to clarify that unless a determination of residence based on incapability to indicate intent is made, the State of residence of an institutionalized individual who is incapable of stating intent is the State in which the institution is located. This will ensure that the individual will not be excluded from Medicaid coverage if the State cannot determine his residence based on:

(1) his parent's or legal guardian's residence; or

(2) his residence when he became incapable or if this cannot be ascertained, when he was first determined to be incapable of stating intent.

There appears to be no reason, however, not to regard non-institutionalized persons as residents of the State where they are living. Therefore, we have changed the proposed regulation so that recipients who are not institutionalized will not have their residence dependent on their parents', or legal guardian's, State of residence, but rather on their own physical presence.

This will eliminate the anomaly that would have been created by the proposed rules for Supplemental Security Income (SSI) recipients under 21: a married blind or disabled SSI recipient under age 21 might have a different State of residence from his spouse. Under the proposal, a disabled SSI husband's residence would have been his parents' residence but his wife's residence would have been based on her physical presence if her Medicaid eligibility was determined according the AFDC rules. It also resolves the situation where an SSI recipient under 21 living permanently with a grandmother in one State would have been eligible for Medicaid in a different State because his parent was living there. The final rules are the same for blind or disabled, non-institutionalized recipients under 21, AFDC recipients, and recipients over 21 who are capable of indicating intent.

These residency requirements deal more fairly with both institutionalized and non-institutionalized individuals.

Limited (2 year) "grandfathering" requirement. When this regulation becomes effective, certain individuals may be adversely affected by it. For example, a recipient's State of residence could, as a result of this regulation, become a State in which needed services currently being received (such as services for the mentally retarded) are not offered.

We have added a "grandfathering" provision to ensure continued Medicaid coverage for 2 years for any institutionalized recipient who would lose access to needed services as a result of this regulation because his residence changed to a State that does not offer the needed services. During this "grandfathering" period, the agency that is currently responsible must continue to provide Medicaid to any client currently covered, unless it makes arrangements with the new State of residence, under an interstate agreement, to provide the needed services at an earlier date.

This requirement is limited to 2 years because we do not intend to create a permanent special classification of Medicaid recipients who would not be subject to the rules otherwise applicable in the program. We believe this temporary provision will protect recipients while allowing States reasonable time to negotiate new placements on an individual case-by-case basis.

Analysis of Public Comments

Financial drain on States with good facilities. We received comments from 4 sources. The concerns were that people go to States with good institutions and place an additional burden on those States. Comments also indicated that States with inadequate facilities will not have the incentive to develop needed services if their residents can receive services out-of-State at no cost to the original State.

The final regulation, as explained earlier, draws a distinction between institutionalized and non-institutionalized individuals. Institutionalized adults who are able to state intent retain, of course, their right to change their residence when moving from one State to another. For others the rules provide either for determinations based on parental responsibility or on their residence before becoming incapable of indicating intent. We believe that this will protect States with high quality institutions from bearing the extra burden of the cost of care of those who enter the State for purposes of receiving care but are unable to form intent to become residents of the State. States will also be motivated to provide sufficient in-State, high quality care because residents remain their financial responsibility regardless of where they seek needed care.

Coverage of migrants. The current regulation generally precludes eligibility for the migrant population. There are two major reasons for this. First, because of the nature of their work, they are in a State for a temporary purpose only, which prohibits their establishing eligibility under the current definition of State residency. Second, many migrants do not meet the "categorical" eligibility requirements. That is, they form intact families and thus cannot qualify as families with children deprived of the support of at least one parent. Although the Social Security Act allows an exception to this requirement so that children in intact families ("Ribicoff children") can be covered, this is optional with States and thus does not resolve the basic problem. There are also many migrants between ages 21 and 64 who do not have children or their children are in the care of a relative in another State.

The proposed regulation specified that persons in the State for "purposes of employment" would be considered residents; this was intended to ensure Medicaid coverage for migrants who would otherwise qualify except for

residence requirements. However, it also specified that individuals under age 21, except for the blind and disabled, would be governed by the AFDC rules, which preclude persons in a State for a temporary purpose from establishing residence.

We received comments from 10 sources outlining the difficulty migrant families would have in establishing eligibility. They pointed out the discrepancy between the rules for parents, who would be covered by the more liberal definition, "for purposes of employment," and those for children, who would be locked into the AFDC definition, "not for a temporary purpose". The result would be that the proposed rule would not improve the plight of migrant families who would still be unable to qualify and, in fact, would complicate the situation by resulting in different residence rules for Medicaid and AFDC for the same family.

To resolve this problem, the Social Security Administration (SSA) is amending the residency regulations for the AFDC program to include an alternative residency test under which any individuals, including migrants, would be recognized as State residents if they entered the State with a job commitment or seeking employment (whether or not currently employed). Under this definition a child is a resident of the State in which the caretaker is a resident. Since the Medicaid definition of residency for the non-institutionalized under age 21 will be governed by the AFDC regulation, the Medicaid and AFDC regulations will be compatible and additional migrants will be helped by the regulation.

For the non-institutionalized individuals over 21 who are not covered by the provisions of the SSA regulation, our regulation includes language similar to that of the SSA regulation.

The State of residence for such an individual is where he is living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where he is living), or the State in which he is living and which he entered with a job commitment or seeking employment, whether or not currently employed.

It is our intention through this test to establish rules for residency for purposes of Medicaid eligibility which will be uniformly applied by all States which have Medicaid programs. This test is to be applied in a broad manner; it is not our intention to permit States to set up obstacles to individuals who would establish residency under this test. Therefore, States may not construe "seeking employment" in a restrictive sense by applying rigorous work search requirements on an individual for purposes of satisfying residence. The AFDC regulation provides for a public comment period. If, as a result of comments received by SSA, the AFDC residency regulation is revised, we will revise our regulation to assure consistency between the two programs.

Specific regulations needed for transient farm workers. Four commenters felt that the definition of persons living in a place for purposes of employment should be limited to migrant farm workers. We have not changed the proposed regulation because limiting this section to agricultural workers would be overly restrictive and require further definition of migrants. Such a limitation would also raise questions about the justification of special interest treatment to this group.

Closer coordination between SSI and Medicaid. We received comments from 10 sources concerning the need for closer coordination between the SSI and Medicaid programs. Many States were concerned that some recipients could have dual residency based on SSI criteria and Medicaid requirements, particularly in States where SSA determines Medicaid eligibility of aged, blind or disabled individuals who are eligible for SSI or a State supplementary payment (SSP). In those States, the agreement between the State and SSA provides that persons determined eligible for SSI are also eligible for Medicaid. However, there is no State residency requirement for SSI, and persons applying for these benefits in a particular State might not be residents of that State for Medicaid purposes. We discussed this problem with SSA, which has indicated a willingness to adopt Medicaid residency requirements for use in determining Medicaid eligibility for SSI recipients.

Emancipation and age of majority. Comments were received from 10 sources concerning parental responsibility, emancipation and the age of majority. Several respondents indicated it is unfair to hold parents liable for support of adults because the onset of their disability occurred prior to age 21.

This indicates a misunderstanding of the proposal. We are not placing financial responsibility on parents, but simply applying the concept of parental responsibility to determinations of State residence.

Comments were also received concerning the differences between the ages of majority. The proposed regulation used age 21 as the age of majority; SSI recognizes emancipation at the age of 18; AFDC's maximum coverage is for individuals until age 21. Both State laws and Federal regulations contain varying requirements on this point. Because the majority of Medicaid applicants and recipients under 21 are linked to AFDC, and because the Medicaid regulations on financial eligibility provide for parental responsibility through age 21, we believe the age of majority for Medicaid purposes should be 21.

One commenter pointed out that an SSI recipient could be declared emancipated for that program and simultaneously under Medicaid still be treated as though he were the responsibility of his parents. As explained above, we are applying the concept of parental responsibility only for purposes of determinations of State residence, and are not placing financial responsibility on parents.

Other comments reflected the concern for those young adults who are married and under 21 who would still not be emancipated under the proposed regulation. As explained earlier, the final regulation allows the State of residence of any non-institutionalized recipient under age 21 to be determined by physical presence.

Persons who become incompetent can never change residency. Comments were received from 5 sources emphasizing the restriction placed on persons who are found to be incompetent. Two respondents emphasized the restrictions on changing State residency placed on this class and felt that their constitutional guaranties were being infringed. This regulation does not restrict the constitutional right to free movement across State lines. Its purpose is to determine residence and thus the State responsible for providing and paying for needed care.

Since residency involves intent to reside in a particular State, our regulation ties residency to intent when individuals have the capability to indicate intent. When an individual loses this capability, he can no longer form a new residence. Consequently the regulation establishes his residence as the time he was last able to state intent. If it cannot be proved that the individual lost his capability to state intent at a particular time and place, residency is fixed as the State in which he was living when he was first determined to be incapable of indicating intent.

Other comments stressed problems created when the family of a patient who is incapable of stating intent is living in a different State than the

patient and they wish to move him to an institution in their State. If the individual was determined incapable before age 21, his State of residence is that of his parents or legal guardian and he could be moved to an institution in the State where his legal guardian or parents live. If he became incapable at or after reaching the age of 21, his State of residence is the State in which he was living when he became incapable, or was first determined incapable, or, if neither can be determined, where the institution is located. If his residence is the State in which he is living and that State is not willing to pay for out-of-State care, he would not be able to relocate in another State and continue to receive Medicaid benefits.

Another problem raised was the situation where States do not offer the kind of care needed, particularly for the mentally retarded, and refuse to pay for any out-of-State care. Provision of certain services under the Medicaid program (including intermediate care facility services for the retarded) is optional for States. If the State of residence does not provide an optional service, HEW cannot force them to amend their program to cover the service. This would require a statutory change.

Expense and difficulty of obtaining IQ tests. The NPRM based determination of mental incapacity on, among other things, an IQ of 49 or less. Respondents among the 5 States which submitted comments on this point felt there would be problems in three areas:

1. Difficulty in obtaining tests;

2. Test results could vary depending on the test used; and

3. Any delay in obtaining test results would delay the processing of applications.

Two advocacy groups felt that IQ tests should not be used and the only test should be that of legal competency.

To ensure program consistency, the criteria proposed for determining whether an individual is capable of indicating intent were similar to those used under the SSI program for determining whether an individual can manage SSI cash benefits. In response to the comments received, the final regulation amends the proposed language to specify that the IQ tests used must be those acceptable to the mental retardation agency in the State. This will ensure that the tests are professionally acceptable at least within that State.

There should be no undue delays in acting on applications since States are required to meet the time limits for processing applications set forth in 42 CFR 435.911. State procedures must include effective means for obtaining the test results within those limits. Since the State can either obtain the test results from previous medical records, the school or other source, or arrange for referral to a testing unit such as the Disability Determination Unit, we think that the requirement is workable.

We believe that basing mental incompetency only on a legal determination would be unduly restrictive. We also think that there should be consistency of requirements between programs whenever possible. We have therefore retained the three options for proving incompetency, any one of which is acceptable.

Interstate Agreements

Three comments were received regarding interstate agreements. One respondent was concerned about the possibility of a person becoming "disentitled," i.e., two States denying an individual residency. The final regulation includes language which prohibits criteria in the agreements that "result in loss of residency in both States".

Concern was also expressed about States including in the agreements other restrictions not prohibited by regulations. We also received a recommendation that agreements should be monitored by HEW. We believe that the agreement section plus the addition of a requirement for continued Medicaid for institutionalized recipients are sufficient to protect the interests of individuals affected by these regulations. It is virtually impossible for Federal regulations to anticipate or cover every residency problem that may arise. We believe that the judicious use of interstate agreements will contribute to the satisfactory resolution of nearly all disputed residency problems of Medicaid applicants and recipients.

With respect to the suggestion for HEW monitoring of interstate agreements, we believe that, in keeping with our emphasis in Federal regulations to focus on outcome rather than process requirements, States should retain responsibility for executing these agreements in the proper manner.

A. 42 CFR Part 435 is amended as set forth below:

1. Section 435.3 is amended by revising the description of Section 1902(b) of the Act to read as follows:

§ 435.3 Basis.

This part implements the following sections of the Act, which state eligibility requirements and standards:

* * * * *

1902(b) Prohibited conditions for eligibility:
Age requirement of more than 65 years;
Age requirement excluding children under age 21;
State residence requirements excluding individuals who reside in the state; and
Citizenship requirement excluding United States citizens.

* * * * *

2. Section 435.403 is revised to read as follows:

§ 435.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to otherwise eligible residents of the State.

(b) *Definition.* For purposes of this section, an individual is considered incapable of indicating intent if—

(1) His I.Q. is 49 or less or he has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) He is judged legally incompetent; or

(3) Medical documentation, or other documentation acceptable to the State, supports a finding that he is incapable of indicating intent.

(c) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (d) through (g) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (i) of this section.

(d) *Placement by States in an out-of-State institution.* If a State arranges for an individual to be placed in an institution located in another State, the State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(e) *Individuals receiving a State supplementary payment (SSP).* For any individual who is receiving an SSP, the State of residence is the State paying the SSP.

(f) *Non-institutionalized individuals.* (1) For any non-institutionalized individual under age 21 whose Medicaid eligibility is based on blindness or disability, the State of residence is the State in which he is living.

(2) For any other non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(3) For any non-institutionalized individual over age 21, the State of residence is the State where he is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where he is living); or

(ii) Living and which he entered with a job commitment or seeking employment (whether or not currently employed).

(g) *Institutionalized individuals.* (1) For any institutionalized individual who is under age 21 or who is age 21 or older and became incapable of indicating intent before age 21, the State of residence is—

(i) That of his parents, or his legal guardian if one has been appointed; or

(ii) That of the parent applying for Medicaid on the individual's behalf, if the parents reside in separate States and there is no appointed legal guardian.

(2) For any institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual was living when he became incapable of indicating intent. If this cannot be determined, the State of residence is the State in which he was living when he was first determined to be incapable of indicating intent.

(3) Under both paragraphs (g) (1) and (2) of this section, the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (g) (1) and (2).

(4) For any other institutionalized individual over age 21, the State of residence is the State where he is living with the intention to remain there permanently or for an indefinite period.

(h) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the grounds that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(i) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (b) through (f) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (h). The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case.

(j) *Continued Medicaid for institutionalized recipients.* If, on the effective date of this section, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient for two years unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

(2) Those arrangements must not include provisions prohibited by paragraph (h) of this section.

B. 42 CFR Part 436 is amended as set forth below:

1. Section 436.3 is amended by revising the description of sec. 1902(b) of the Act to read as follows:

§ 436.2 Basis.

This part implements the following sections of the Act, which state requirements and standards for eligibility:

* * * * *

1902(b) Prohibited conditions for eligibility:
Age requirement of more than 65 years;
Age requirement excluding children under age 21;
State residence requirements excluding individuals who reside in the State; and
Citizenship requirement excluding United States citizens.

* * * * *

2. Section 436.403 is revised to read as follows:

§ 436.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to otherwise eligible residents of the State.

(b) *Definition.* For purposes of this section, an individual is considered incapable of indicating intent if—

(1) His I.Q. is 49 or less or he has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) He is judged legally incompetent; or

(3) Medical documentation, or other documentation acceptable to the State, supports a finding that he is incapable of indicating intent.

(c) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (d) through (f) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (h) of this section.

(d) *Placement by States in an out-of-State institution.* If a State arranges for an individual to be placed in an institution located in another State, the State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(e) *Non-institutionalized individuals.* (1) For any non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(2) For any other individual over age 21, the State of residence is the State where he is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where he is living); or

(ii) Living and which he entered with a job commitment or seeking employment (whether or not currently employed).

(f) *Institutionalized individuals.* (1) For any institutionalized individual who is under age 21 or who is age 21 or older and became incapable of indicating intent before age 21, the State of residence is—

(i) That of his parents, or his legal guardian if one has been appointed; or

(ii) That of the parent applying for Medicaid on the individual's behalf, if the parents reside in separate States and there is no appointed legal guardian.

(2) For an institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual was living when he became incapable of indicating intent. If this cannot be determined the State of residence is the State in which he was living when he was first determined incapable of indicating intent.

Under both paragraphs (f) (1) and (2) of this section, the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (f) (1) and (2).

(4) For any other institutionalized individual over age 21, the State of residence is the State where he is living with the intention to remain there permanently or for an indefinite period.

(g) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not

resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the grounds that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(h) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (b) through (f) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (g). The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case.

(i) *Continued Medicaid for institutionalized recipients.* If, on the effective date of this section, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—(1) The agency must continue to provide Medicaid to that recipient for two years unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and (2) Those arrangements must not include provisions prohibited by paragraph (g) of this section.

(Sec. 1102, Social Security Act, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: July 2, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: July 9, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-21822 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FI-5043]

44 CFR—Part 67

Final Flood Elevation Determination for the City of Lauderdale Lakes, Broward County, Fla., Under the Naitonal Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lauderdale Lakes, Broward County, Fla.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Lauderdale Lakes, Fla.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lauderdale Lakes, are available for review at City Hall, 4300 N.W. 36th Street, Lauderdale Lakes, Fla.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lauderdale Lakes, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 67.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle River Canal	U.S. Highway 441 (at centerline).	8
East Gate Canal	At intersection of U.S. Highway 441 and NW 29th Street.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21852 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5048]

Final Flood Elevation Determination for the Town of Patriot, Switzerland County, Indiana Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Patriot, Switzerland County, Indiana.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Patriot, Switzerland County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Patriot are available for review at the Switzerland County Planning Commission, Town Hall, Patriot, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal insurance Administrator gives notice of the final determinations of flood elevations for the Town of Patriot, Switzerland County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this detemination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Upstream corporate limit	479
	Downstream corporate limit	479

(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, 1978), as amended; 42 U.S.C. 40014128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: July 9, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21719 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5057]

Final Flood Elevation Determination for The City of Waltham, Middlesex County, Massachusetts Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Waltham, Middlesex County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Waltham, Massachusetts.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Waltham, Middlesex County, Massachusetts are available for review at Office of Public Works, City Hall, Main Street, Waltham, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Waltham, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic verticle datum
Charles River	Downstream Corporatre Limits.	22
	Bleachery Dam-50 feet*	24
	Elm Street	27
	Moody Street Dam-50 feet**	28
	Moody Street Dam-50 feet*	39
Beaver Brood	Main Street	40
	Boston and Maine Railroad (Second Crossing)-25 feet*	41
	Boston and Maine Railroad (Fifth Crossing)-at centerline.	46
	Beaver Street	51
	Trapelo Road	76
Hobbs Brook	Downstream Corporate Limits.	137
Chester Brook	Confluence with Beaver Brook.	41
	Confluence with Westchester Brook.	45
	Beaver Street	49
	Stanley Road-50 feet*	102
	Lexington Street Culvert Outlet-50 feet downstream.	160
	Lexington Street Culvert Inlet-200 feet upstream.	191
	Confluence with Hardy Pond	204
Weet Chester Brook	Confluence with Chester Brook.	45
	Lexington Street Culvert Inlet	48
	Bacon Street Culvert Inlet	75
	Worcester Lane-at centerline.	75
	Totten Pond Road-100 feet*	77
Stony Brook	Confluence with Charles River.	39
	Weir at South Street-50 feet*	48
	Stony Brook Reservoir Dam-75 feet**.	48
	Stony Brook Reservoir Dam-50 feet*.	72
	Boston and Maine Railroad (First Crossing).	84
	Interstate 28 Interchange-185 feet*.	88
	Boston and Maine Railroad (Second Crossing).	92

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21701 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5139]

Final Flood Elevation Determination for the City of DeWitt, Clinton County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final Base (100-year) flood elevations are listed below for selected locations in the City of DeWitt, Clinton County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of DeWitt, Clinton County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Dewitt are available for review at the City Hall, DeWitt, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of DeWitt, Clinton County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Looking Glass River	Southwestern corporate limit	795
	Just downstream of Shavey Road.	796
	Approximately 1,450 feet downstream Bridge Street.	799
	Upstream corporate limit	801

(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, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21702 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

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44 CFR Part 67

[Docket No. FI-4906]

Final Flood Elevation Determination for the Township of Gaines, Genesee County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Gaines, Genesee County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Gaines, Genesee County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Gaines are available for review at the 12124 West Hill Road, Swartz Creek, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Gaines, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87, Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
West Branch Swartz Creek.	Downstream corporate limits.	772
	About 1,175 feet upstream of corporate limits.	772
Crapo Drain	Mouth at Alger Creek	772
	2,400 feet upstream of Van Vleet Road.	773
Davison Drain	Downstream corporate limits.	771
	2,400 feet upstream of corporate limit.	771
	300 feet downstream of Hill Road.	778
	2,000 feet upstream of Hill Road.	784
	About 2,100 feet upstream of Hill Road.	786
	About 125 feet upstream of Duffield Road.	794
	350 feet upstream of Duffield Road.	797
	1,250 feet upstream of Duffield Road.	797
Jones Creek	Downstream corporate limit	771
	1,550 feet downstream of Reid Road.	772
	2,500 feet upstream of Grand Trunk Western Railroad.	782
	Just downstream of Duffield Road.	786
	Just upstream of Duffield Road.	787
	1,400 feet upstream of Grand Blanc Road.	789
	3,000 feet upstream of Grand Blanc Road.	793
Alger Creek	Downstream corporate limit	772
	Just upstream of Hill Road	774
	Just upstream of Reid Road	784
	Just downstream of Morrish Road.	789
	Just upstream of Morrish Road.	791
	Just downstream of Grand Blanc Road.	795

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21703 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5177]

Final Flood Elevation Determination for the Township of Ganges, Allegan County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final Rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Ganges, Allegan County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Ganges, Allegan County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Township of Ganges are available for review at the Township Hall, Route 1, Fennville, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richrard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Ganges, Allegan County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)]. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Within North and South corporate limits of the Township of Ganges.	584

(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, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21704 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5140]

Final Flood Elevation Determination for the City of Grand Rapids, Itasca County, Minn. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final Rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Grand Rapids, Itasca County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Grand Rapids, Itasca County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Grand Rapids are available for review at the City Hall, 420 Pokegama Avenue North, Grand Rapids, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Grand Rapids, Itasca County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)]. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limits	1,208
	500 feet upstream of 7th Avenue.	1,206
	Downstream side of Blandin Dam.	1,267
	Upstream side of Blandin Dam.	1,269
	Upstream corporate limits	1,269

(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, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21706 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5103]

Final Flood Elevation Determination for the City of Hendrum, Norman County, Minn. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected

locations in the City of Hendrum, Norman County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Hendrum, Norman County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hendrum are available for review at the City Hall, Hendrum, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hendrum, Norman County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wild Rice River	200 feet downstream of County Highway 25.	870
	1.32 miles upstream of County Highway 25.	870

(National Flood Insurance Act of 1978 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21706 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

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44 CFR Part 67

[Docket No. FI–4339]

Final Flood Elevation Determination for the City of New Ulm, Brown County, Minn. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of New Ulm, Brown County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of New Ulm, Brown County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of New Ulm, Brown County, Minnesota are available for review at the City Clerk's Office, City Hall, New Ulm, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of New Ulm, Brown County, Minnesota.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Minnesota River	20th South Street (extended)	808
	Just downstream of U.S. Highway 14 Bridge.	809
	19th North Street (extended).	810
Cottonwood River	Just downstream of Chicago and Northwestern Railroad Bridge.	807
	Just upstream of State Highway 15 Bridge.	811
	Cottonwood Street Bridge	816

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 22, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21707 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

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44 CFR Part 67

[Docket No. FI–5246]

Final Flood Elevation Determination for the Unincorporated Areas of Platte County, Platte County, Mo. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Unincorporated Areas of Platte County, Platte County, Missouri.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations for the Unincorporated Areas of Platte County, Platte County, Missouri.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Unincorporated Areas of Platte County are available for review at the County Court House, 315 Main Street, Platte City, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Unincorporated Areas of Platte County, Platte County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Western corporate limit of Parkville, Kansas.	764
	8.5 miles downstream of the Burlington Northern Railroad Bridge.	768
	Upstream side of the Burlington Northern Railroad Bridge.	773
	3 miles upstream of State Highway 92.	778
	8 miles upstream of State Highway 92.	780
	Northern Platte County Boundary.	786
Walnut Creek	Just upstream of dam	776
	1,000 feet downstream of Walnut Creek Drive.	776
	Just upstream of Walnut Creek Drive.	782
	Just downstream of Crooked Road.	787
	Just upstream side of Crooked Road.	791
	1,400 feet upstream of Crooked Road.	804
	1,600 feet upstream of Crooked Road.	830
	Just downstream of State Highway 45.	834
Burlington Creek	Corporate limits of Riverside, Missouri.	763
	Corporate limits of Kansas City, Missouri.	782

(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, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21708 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI–5068]

Final Flood Elevation Determination for The Town of Belvidere, Warren County, N.J. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Belvidere, Warren County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Belvidere, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Belvidere, Warren County, New Jersey, are available for review at Town Clerk's Office, Town Hall, Belvidere, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Belvidere, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	U.S. Geological Survey Gage No. 10446500—50 feet [1].	254
	Water Street—25 feet [1]	256
Pequest River	Conrail—25 feet [1]	255
	Hardwick Street—25 feet [1]	261
	Weir 3,100 feet upstream of Hardwick Street—100 feet [1].	275

[1] Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21709 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5152]

Final Flood Elevation Determination for the Township of Maple Shade, Burlington County, N.J. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Maple Shade, Burlington County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Maple Shade, Burlington County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Maple Shade, Burlington County, New Jersey, are available for review at the Municipal Building, Main Street, Maple Shade, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Maple Shade, Burlington County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch, Pennsauken Creek.	Downstream Corporate Limits.	11
	State Route 38 (Upstream)	24
	Kings Highway	30
	Upstream Corporate Limits	35
North Branch, Pennsauken Creek.	Downstream Corporate Limits.	10
	Main Street	11
	Lenolu Road	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21710 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4845]

Final Flood Elevation Determination for the City of Perth Amboy, Middlesex County, N.J.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Perth Amboy, Middlesex County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Perth Amboy, Middlesex County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Perth Amboy, Middlesex County, New Jersey, are available for review at the Perth Amboy City Hall, Perth Amboy, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Perth Amboy, Middlesex County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan Bay	Shoreline	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 79-21711 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4775]

Final Flood Elevation Determination for the Borough of Metuchen, Middlesex County, N.J. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected

locations in the Borough of Metuchen, Middlesex County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Metuchen, Middlesex County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Metuchen, Middlesex County, New Jersey, are available for review at the Metuchen City Hall, Metuchen, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Metuchen, Middlesex County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 67.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dismal Brook	Culvert at Sewage Treatment Plant near Jersey Avenue (Upstream).	80
	Conrail Railroad Spur (Upstream).	77
	Downstream Corporate Limits.	73
Tributary to Mill Brook	Orchard Avenue (Upstream)	82
	Downstream Corporate Limits.	79

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21712 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-871]

Final Flood Elevation Determination for the Township of Randolph, Morris County, N.J. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Randolph, Morris County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Randolph, Morris County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Randolph, Morris County, New Jersey, are available for review at the Randolph Municipal Building, Millbrook Avenue, Randolph, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of final determinations of flood elevations for the Township of Randolph, Morris County, New Jersey.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rockaway River	Downstream Corporate Limits.	541
	Dover Rockaway Road	546
	Upstream Corporate Limits	549
Mill Brook	Downstream Corporate Limits.	546
	State Highway 10	546
	South Morris Street	576
	Old Mill Road	590
	Dam (Downstream)	660
	Dam (Upstream)	671
	Mill Brook Avenue (Upstream).	697
	Center Grove Road (Upstream).	819
	Dalrymple Pond outlet	823
Den Brook	Shongum Lake	703
	Radtke Road	709

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21713 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5144]

Final Flood Elevation Determination for the Borough of Spotswood, Middlesex County, N.J., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Spotswood, Middlesex County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Spotswood, Middlesex County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Spotswood, Middlesex County, New Jersey, are available for review at the Spotswood Municipal Building, Summerhill Road, Spotswood, New Jersey.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Spotswood, Middlesex County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South River	Duhernal Lake Dam	12
	Eisenhower Avenue Extended.	14
	Confluence of Manalapan Brook, Matchaponix Brook.	15
Manalapan Brook	Confluence of South River	15
	DeVoe Street Bridge (Upstream).	19
	DeVoe Lake Dam (Upstream)	21
	Daniel Road Bridge (Upstream).	25
	Upstream Corporate Limits	26
Matchaponix Brook	Confluence with South River	15
	Mundy Avenue Bridge (Upstream).	16
	Upstream Corporate Limits	19
Cedar Brook	Confluence with Manalapan Brook.	17
	Main Street Culvert	18
	Railroad Bridge (Downstream).	19
	Railroad Bridge (Upstream)	30
	Eaton Avenue extended	31
	Upstream Corporate Limits	35
Tributary to Cedar Brook.	Confluence with Cedar Brook	30
	VanBrockel Street extended—limit of detailed study.	36

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21714 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5108]

Final Flood Elevation Determination for the Town of Westfield, Union County, N.J., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Westfield, Union County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Westfield, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Westfield, Union County, New Jersey, are available for review at Municipal Building, 425 East Broad Street, Westfield, New Jersey.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Westfield, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Robinsons Branch 15.	Lamberts Mill Road—at centerline.	51
	Park Bridge—50 feet*	76
	Willow Grove Road—50 feet*.	89
Robinsons Branch 15–1.	Confluence with Robinsons Branch 15.	52
Robinsons Branch 15–2.	Confluence with Robinsons Branch 15.	69
Tributary to Rahway River.	Downstream Corporate Limits.	88
	Gallows Hill Road—50 Feet**.	95
	Gallows Hill Road—50 feet*	100
Nomahegan Brook-Echo Lake.	Springfield Avenue—at centerline.	77

* Upstream from centerline.
** Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21715 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

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44 CFR—Part 67

[Docket No. FI-5180]

Final Flood Elevation Determination for The Town of Brookford, Catawba County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Brookford, Catawba County, North Carolina.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Brookford, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Brookford, Catawba County, North Carolina, are available for review at Town Hall, 1700 South Center Street, Hickory, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Brookford, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87, Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Henry Fork River	Confluence with Barger Branch.	861
	Shuford Mills Dam—150 feet*.	862
	Shuford Mills Dam—150 feet**.	882
	State Highway 127***	883
	Confluence with Henry Fork Tributary No. 2.	887
Henry Fork Tributary No. 2.	Confluence with Henry Fork...	887
	U.S. Highway 1213—150 feet*.	893
	U.S. Highway 1213—25 feet**.	899
Barger Branch	Confluence with Henry Fork***.	861
	Treatment Plant Road—100 feet**.	863
	Upstream Corporate Limits***.	867

* Downstream from centerline.
** Upstream from centerline.
*** At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21716 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

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44 CFR Part 67

[Docket No. FI-5127]

Final Flood Elevation Determination for the City of Trotwood, Montgomery County, Ohio Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Trotwood, Montgomery County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Trotwood, Montgomery County, Ohio.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Trotwood are available for review at the City Hall, 35 North Olive Street, Trotwood, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Trotwood, Montgomery County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wolf Creek	Approximately 1,200 feet downstream of the downstream corporate limit.	804
	Just upstream of Olive Road.	816
	Just upstream of ConRail	833
	Just downstream of Main Street.	846
	Upstream corporate limit	856
North Branch Wolf Creek.	Confluence with Wolf Creek...	827
	1,600 feet upstream from Free Pike.	833

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of Broadway Avenue.	839
	Just upstream of Newfields Boulevard.	858
	Upstream corporate limit	861
Tributary A	Mouth at North Branch Wolf Creek.	845
	500 feet upstream from mouth.	848
	1,550 feet upstream from mouth.	864
	Just upstream of Newfields Boulevard.	861
	2,200 feet upstream of Newfields Boulevard.	894
Tributary B	Mouth at North Branch Wolf Creek.	860
	1,200 feet upstream from mouth.	868
	Upstream corporate limit	870
Dry Run	100 feet downstream from confluence of Tributary E.	825
	2,575 feet upstream of the confluence of Tributary E.	836
	200 feet downstream of Shiloh Springs Road.	844
	Just upstream of Shiloh Springs Road.	845
	150 feet upstream from confluence of Tributary H.	851
	Upstream corporate limit	854
Tributary F	400 feet upstream of mouth	844
	1,000 feet upstream of mouth.	847
	675 feet downstream from Salem Bend Road.	851
	175 feet upstream of Salem Bend Road.	863
Tributary G	Mouth at Dry Run	844
	700 feet upstream of mouth at Dry Run.	846
	Just upstream of Shiloh Springs Road.	852
	1,200 feet upstream of Shiloh Springs Road.	859
	Limit of flooding 250 feet upstream of northern corporate limit.	867
Tributary H	Mouth at Dry Run	850
	Upstream corporate limit	854

(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, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21717 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

[Docket No. FI-5224]

44 CFR Part 67

Final Flood Elevation Determination for the City of Weatherford, Custer County, Oklahoma Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Weatherford, Custer County, Oklahoma.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Weatherford, Custer County, Oklahoma.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Weatherford, Custer County, Oklahoma are available for review at the City Administrator's Office, City Offices, Weatherford, Oklahoma 73096.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Weatherford, Custer County, Oklahoma.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary to Little Deep Creek.	Just downstream of Davis Street.	1,622
	Just upstream of Davis Street.	1,627
	Just upstream of Washington Avenue.	1,641

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21718 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

[Docket No. FI-5110)

44 CFR Part 67

Final Flood Elevation Determination for the City of Gold Hill, Jackson County, Oregon, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Gold Hill, Jackson County, Oregon.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Gold Hill, Oregon.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Gold Hill, Jackson County, Oregon, are available for review at City Hall, Gold Hill, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Gold Hill, Oregon.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234),

87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rogue River	Southern Pacific Railroad—100 feet upstream from centerline.	1,066

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, (November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21832 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5153]

Final Flood Elevation Determination for the Borough of Aspinwall, Allegheny County, Pennsylvania Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Aspinwall, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Aspinwall, Allegheny County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Aspinwall, Allegheny County, Pennsylvania, are available for review at the Borough Building, 217 Commercial Avenue, Aspinwall, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Aspinwall, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allegheny River	Downstream Corporate Limits.	738
	Conrail Bridge	738
	Upstream Corporate Limits	738

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21833 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5112]

Final Flood Elevation Determination for the Borough of Birdsboro, Berks County, Pennsylvania Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Birdsboro, Berks County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Birdsboro, Berks County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Birdsboro, Berks County, Pennsylvania, are available for review at the Borough Hall, 113 East Main Street, Birdsboro, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Birdsboro, Berks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90)

days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	Downstream Corporate Limits.	164
	State Route 82	167
	Conrail	168
	Upstream Corporate Limits	170
Hay Creek	Confluence with Schuylkill River.	165
	First Street Bridge	167
	State Route 82	190
	Upstream Corporate Limits	207

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21834 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–3338]

Final Flood Elevation Determination for the Borough of Bristol, Bucks County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Bristol, Bucks County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Bristol, Bucks County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Bristol, Bucks County, Pennsylvania, are available for review on the second floor in the Borough Manager's Office, Municipal Building, Pond and Mulberry Streets, Bristol, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Bristol, Bucks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Upstream and Downstream Corporate Limits.	11
Otter Run (Mill Creek).	Maple Beach Road	11
	Otter Street	19
	Bristol Pike (U.S. Route 13)	22

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21835 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5113]

Final Flood Elevation Determination for the Township of Chapman, Clinton County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Chapman, Clinton County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Chapman, Clinton County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Chapman, Clinton County, Pennsylvania, are available for review at the Township Building, Renovo, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Chapman, Clinton County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limit.	630
	L.R. 120 (Downstream)	636
	Upstream Corporate Limit	658
Hyner Run	Conrail	642
	Legislative Route 120	644
	Private Bridge	702
	Hyner State Park Bridge (Upstream).	781
	Private Bridge (Downstream).	910
Young Woman's Creek.	Conrail	651
	Township Route 551 (Upstream).	653
	Confluence with left branch of Young Woman's Creek (Upstream).	716
	Legislative Route 18020 (Upstream).	743

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21836 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5114]

Final Flood Elevation Determination for the Borough of Clarks Summit, Lackawanna County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Clarks Summit, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Clarks Summit, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Clarks Summit, Lackawanna County, Pennsylvania, are available for review at the Borough Hall, Clarks Summit, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Clarks Summit, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary Along Conrail.	Gravel Pond Road Culvert Inlet.	1,224
	Terrace Drive	1,226
	Greenwood Avenue	1,234
	Winola Road Culvert Inlet	1,237
	Bedford Street Culvert Inlet	1,242
	Marion Street Bridge	1,250
	Center Street Culvert Outlet	1,261
	Center Street Culvert Inlet	1,276
	Division Street	1,305
	Electric Street	1,312
	Florence Street (Upstream)	1,324
Tributary along U.S. Routes 6 and 11.	Maple Street (Extended)	1,144
	Weis Market Culvert Inlet	1,152
	Landsdowne Avenue Culvert Inlet.	1,162
	Fairview Avenue	1,177
	Walnut Street (Extended)	1,194
	Linden Street Culvert Outlet	1,245
	Upstream Corporate Limits	1,262
Tributary along Hemlock Drive.	Playground Culvert Inlet	1,157
	Walnut Street (Extended)	1,163
	Poplar Street (Extended)	1,195
	Footbridge	1,217
	Ash Street (Extended)	1,230
	South Abington Road Culvert Outlet.	1,254

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21837 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5185]

Final Flood Elevation Determination for the Borough of Duncannon, Perry County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Duncannon, Perry County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations for the Borough of Duncannon, Perry County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Duncannon, Perry County, Pennsylvania, are available for review at the Borough Building, 428 High Street, Duncannon, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room

5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Duncannon, Perry County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)]. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Upstream Corporate Limits	358
	Cherry Street (extended)	356
	Downstream Corporate Limits.	354
Little Juniata Creek	Upstream Corporate Limits	361
	Church Avenue (extended)	355
	Market Street, Pa. 274	354

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21838 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5115]

Final Flood Elevation Determination for the Borough of Houston, Washington County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Houston, Washington County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations for the Borough of Houston, Washington County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Houston, Washington County, Pennsylvania, are available for review at the Borough Building, Houston, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Houston, Washington County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chartiers Creek	Corporate Limits (Downstream).	952
	ConRail Crossing	952
	Main Steet (Upstream)	953
	Corporate Limits (Upstream)	953
Chartiers Run	Corporate Limits (Downstream).	954
	Pike Street (Upstream)	954
	Abandoned Bridge (Upstream).	954
	Corporate Limits (Upstream)	954

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21839 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5116]

Final Flood Elevation Determination for the Borough of Jermyn, Lackawanna County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Jermyn, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Jermyn, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Jermyn, Lackawanna County, Pennsylvania, are available for review at the Jermyn Community House, Jermyn, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood

Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Jermyn, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Downstream Corporate Limits.	915
	Upstream Side Delaware Street Bridge.	937
	Upstream Corporate Limits	948
Rush Brook	Confluence with Lackawanna River.	944
	Upstream Side Shields Street Bridge.	972
	Upstream Side Lincoln Street Bridge.	988

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21840 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5117]

Final Flood Elevation Determination for the Township of Lancaster, Lancaster County, Pennsylvania, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final Base (100-year) flood elevations are listed below for selected locations in the Township of Lancaster, Lancaster County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Lancaster, Lancaster County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Lancaster, Lancaster County, Pennsylvania are available for review at the Township Building, 1240 Maple Avenue, Lancaster, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Lancaster, Lancaster County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Little Conestoga Creek.	Corporate Limits	278
	Mill Driveway	286
	Schoolhouse Road	288
	West Columbia Avenue	289
	Marietta Drive	294
Conestoga River	South Prince Street	245
	South Queen Street	247
	Rockford Road	258
	River Road	262
	Lincoln Highway	268

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21841 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5186]

Final Flood Elevation Determination for the Borough of Newtown, Bucks County, Pennsylvania Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Newtown, Bucks County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Newtown, Bucks County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final

elevations for the Borough of Newtown, Bucks County, Pennsylvania, are available for review at the Borough Hall, Newtown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Newtown, Bucks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Newtown Creek	Downstream Corporate Limits.	125
	Center Avenue	144
	Jefferson Avenue	156
	Upstream Corporate Limits	171

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21842 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5187]

Final Flood Elevation Determination for the Township of Newtown, Bucks County, Pa., Under the National Flood Insurance Program.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Newtown, Bucks County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Newtown, Bucks County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Newtown, Bucks County, Pennsylvania, are available for review at the Township Building, Newtown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Newtown, Bucks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Newtown Creek	Downstream Corporate Limits.	87
	Center Avenue	144
	Wright Road	236
	Eagle Road	255
	6,240 feet above Eagle Road	293
Neshaminy Creek	Downstream Corporate Limits.	86
	Park Bridge Dam	105
	Upstream Corporate Limits	114
Core Creek	State Route 332	141
	Corporate Limits	149

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21843 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR—Part 67

[Docket No. FI–5119]

Final Flood Elevation Determination for the Township of Ross, Allegheny County, Pennsylvania, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Ross, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Ross, Allegheny County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Ross, Allegheny County, Pennsylvania, are available for review at the Municipal

Building, Perry and Center Avenues, Pittsburgh, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Ross, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87, Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Girtys Run	Downstream Corporate Limit	839
	Brookville Lane	905
	Rochester Road	944
	Seventh Street	983
	Bernice Street	1,023
	Three Degree Road	1,055
	Upstream Corporate Limit	1,092
Lowries Run	Downstream Corporate Limit	856
	Reis Run Road	892
	Rochester-Lowries Run Road	913
	Upstream Corporate Limit	939
West Little Pine Creek	Downstream Corporate Limit	977
	Sutter Road	994
	Thompson Run Road	1,010
	Upstream Corporate Limit	1,016
Rochester Run	Evergreen Heights Road	944
	Upstream Corporate Limit	965

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21844 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5120]

Final Flood Elevation Determination for the Borough of Tunkhannock, Wyoming County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Tunkhannock, Wyoming County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Tunkhannock, Wyoming County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Tunkhannock, Wyoming County, Pennsylvania, are available for review at the Municipal Office, Tunkhannock, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Tunkhannock, Wyoming County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Western Corporate Limits	611
	Eastern Corporate Limits	610
Tunkhannock Creek	At Mouth	610
	Eastern Corporate Limits	610
Swale Brook	At Mouth	610
	McCord Street Bridge	613
	North Bridge Street	617
	Extension of Franklin Avenue	643
	Western Corporate Limits	665
Tributary No. 1 to Swale Brook.	At Mouth	622
	Reed Street	626
	Avery Street	672
	T-406 Culvert	697
	Northern Corporate Limits	730

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21845 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5189]

Final Flood Elevation Determination for the Township of Wheatfield, Perry County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Wheatfield, Perry County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Wheatfield, Perry County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Wheatfield, Perry County, Pennsylvania, are available for review at the Township Building, R.D. 1, Duncannon, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Wheatfield, Perry County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Juniata River	Downstream Corporate Limits of the Township of Wheatfield.	365
	Confluence of Losh Run	370

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21846 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5121]

Final Flood Elevation Determination for the Borough of Wrightsville, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Wrightsville, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Wrightsville, York County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Wrightsville, York County, Pennsylvania, are available for review at the Borough Hall, Wrightsville, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Wrightsville, York County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Susquehanna River	Confluence of Kreutz Creek	241
	Route 462	242
	Upstream Corporate Limits	243
Kreutz Creek	Susquehanna River	241
	175 feet downstream State Route 624.	245
	100 feet upstream State Route 624.	253
	Upstream Corporate Limits	254

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21847 Filed 7-16-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5188]

Final Flood Elevation Determination for the Borough of York Haven, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of York Haven, York County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of York Haven, York County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of York Haven, York County, Pennsylvania, are

available for review at the resident of Mrs. Mary DalPezzo, Borough Secretary, 28 Second Street, York Haven, Pa.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of York Haven, York County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Downstream Corporate Limit	281
	Confluence of Conewago Creek.	281
	Upstream Corporate Limit	282
Conewago Creek	Confluence with Susquehanna River.	281
	Upstream Corporate Limits	281

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21848 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5147]

Final Flood Elevation Determination for the City of Martinsville, Va., Under the National Flood Insurance Program

AGENCY: Office of the Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Martinsville, Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Martinsville, Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Martinsville, Virginia, are available for review at the Martinsville City Hall, 55 West Church Street, Martinsville, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Martinsville, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Jones Creek	Downstream Corporate Limits.	742
	State Route 108	764
	Prison Railroad	777
	Private Bridge 2,400 feet upstream of Prison Railroad.	803
Jones Creek Tributary No. 1.	Confluence with Jones Creek	765
	0.4 mile upstream from the confluence with Jones Creek.	801
Jones Creek Tributary No. 2.	Confluence with Jones Creek	777
	State Route 662	784
Tributary of Mulberry Creek.	Downstream Corporate Limits.	837
	U.S. Route 58	879
Doe Run	Downstream Corporate Limits.	708
	Overland Avenue extended	800
	Confluence of Tanyard Branch and Arrons Branch.	831
Rugg Creek	Confluence of Tributary No. 1	756
	Smithlake Road	763
	Open Air Pavilion Entrance	777
	Private Bridge at River Mil 1.7.	808
	Scuffiehill Road	833
	Rives Road	849
	Mulberry Road	868
	Gates Street	879
Aarons Branch	Confluence of Tanyard Branch.	831
	U.S. Highway 220	877
	Bridge Street	887
Smith River	Downstream Corporate Limits.	668
	Upstream Corporate Limits	714

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21849 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5126]

Final Flood Elevation Determination for the City of Longview, Cowlitz County, Wash., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Longview, Cowlitz County, Washington.

These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations for the City of Longview, Washington.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Longview, Cowlitz County, Washington, are available for review at City Hall, Longview, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Longview, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Columbia River	Most Upstream Corporate Limits—at centerline.	17
Cowlitz River	Allen Street Bridge—50 feet*	21
	Washington Highway 4—100 feet*.	21
	Most Upstream Corporate Limits—at centerline.	22

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21850 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5194]

Final Flood Elevation Determination for the City of Martinsburg, Berkeley County, W. Va., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Martinsburg, Berkeley County, West Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for pariticipation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Martinsburg, Berkeley County, West Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Martinsburg, Berkeley County, West Virginia, are available for review at 224 West King Street, Martinsburg, West Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insuance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Martinsburg, Berkeley County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tuscarora Creek	Private Road	392
	East Burke Street	404
	ConRail	454
	Old Mill Road	473
Dry Run	Adam Street	448
	Rothwell Avenue	448
	Upstream Corporate Limits	448

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21851 Filed 7–16–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

45 CFR Part 233

Coverage and Conditions of Eligibility in Financial Assistance Programs; Residence

AGENCY: Social Security Administration, HEW.

ACTION: Interim final rule.

SUMMARY: This regulation establishes an additional criterion for determining State residency of applicants and recipients under Title I, IV–A, X, XIV, or XVI(AABD) of the Social Security Act.

It expands the definition of a resident to include anyone who at the time of application is living in the State, is not receiving assistance from another State, and entered the State with a job commitment or seeking employment (whether or not currently employed). This definition will make it possible for migrant and itinerant workers with families who are denied AFDC and Medicaid benefits because they move from State to State for employment

purposes, to meet the residence requirement for assistance from the State, and to receive benefits if they are otherwise eligible.

DATES: This interim regulation is effective October 15, 1979. Consideration will be given to any comments received on or before September 17, 1979.

ADDRESSES: Send your written comments to: Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments received in response to this interim final rule will be available during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 1169, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Miss Aleatha E. Slade, Office of Family Assistance, Office of Policy, Social Security Administration, 330 C Street, S.W., Washington, D.C. 20201, telephone (202) 245-0521.

SUPPLEMENTARY INFORMATION: HEW regulations at 45 CFR 233.40(a)(1) define a resident of a State as a person who is living in the State voluntarily with the intention of making his or her home there and not for a temporary purpose. Some States have applied this definition to deny AFDC to migrant and itinerant workers and their families. As a result, these individuals have also been denied Medicaid coverage to meet their medical needs.

The Department believes it is not equitable for otherwise eligible people to be denied the benefits of these two Federal programs solely because they move constantly from State to State for employment purposes. This rule addresses this problem by expanding the definition of a resident to include anyone who is living in the State, entered the State with a job commitment or seeking employment, and is not receiving AFDC benefits from another State. A person meeting this definition is a resident whether currently employed or not.

We believe that the combined requirement that a person actually be in the State, and that he or she entered the State with a job or looking for a job, is an appropriate measure of residence. The Department believes that when these two requirements are satisfied there is adequate connection with the State to establish residency for AFDC and Medicaid purposes. This amended definition is mandatory for State AFDC agencies. A person meeting this residence criterion, if otherwise eligible for AFDC and Medicaid assistance, cannot be denied that assistance.

The regulation does not change the existing definition. Individuals who have been receiving assistance in a State as residents of that State on the basis of the existing residency definition would retain their residency in that State until abandoned. Under the new rules, applicants could qualify for assistance under either the old or the revised definition of residence. However, a person may not receive assistance from two States.

It is our intention through this test to establish rules for residency for purposes of AFDC eligibility which will be applied by all States which have AFDC programs in a broad manner; it is not our intention to permit States to set up obstacles to individuals who would establish residency under this test. Therefore, States may not construe "purposes of employment" in a restrictive sense by applying rigorous work search requirements on an individual for purposes of satisfying residence.

Why This Is an Interim Final Rule

Appearing elsewhere in this issue of the **Federal Register**, the Department is publishing a final rule governing the residency requirement for Medicaid. That rule was published as a Notice of Proposed Rulemaking on August 8, 1978, and public comments were invited. This rule arises from those comments, and from the Department's concern regarding this part of the population, for whom medical assistance and services have been denied. One of the key purposes for the Medicaid rule is to assure that migratory and itinerant workers receive Medicaid coverage. Yet, as some commenters pointed out, the Medicaid change would not be effective without a comparable AFDC amendment, since a person must meet AFDC residency requirements to be eligible for Medicaid. This rule remedies the oversight in the Medicaid NPRM.

The Department believes there are a number of important reasons why this rule should become effective immediately. The concept has already been proposed as a rule, and open to public discussion, in the Medicaid NPRM. The NPRM included as a resident a person who is living in the State for purposes of employment. We have tried, in this rule, to define more precisely the employment relationship with the State, but the basic approach is the same. Many of the parties who commented on the Medicaid NPRM would be the same parties who would review and comment on this conforming AFDC change. Also, we do not expect the rule to significantly affect State AFDC programs. Its principal effect will be in the Medicaid program. Lastly, delay of this rule would further delay assistance for migrant and other itinerant workers.

For all of these reasons it would be contrary to the public interest to publish an AFDC NPRM for this change.

We are, therefore, issuing this as an Interim Final Rule, and public comments are welcomed. If after consideration of comments, the Department decides to alter this rule, a further amendment will be made.

(Secs. 402(b) and 1102 of the Social Security Act, as amended; 49 Stat. 647, as amended; 42 U.S.C. 602 and 1302; 91 Stat. 1354)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: July 3, 1979.

Robert P. Bynum,

Acting Commissioner of Social Security.

Approved: July 9, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 233.40 is amended to read as follows:

§ 233.40 Residence.

(a) *Condition for plan approval.* A State plan under title I, IV—A, X, XIV, or XVI of the Social Security Act may not impose any residence requirement which excludes any individual who is a resident of the State, except as provided in paragraph (b) of this section. For purposes of this section:

(1) A resident of a State is one: (i) Who is living in the State voluntarily with the intention of making his or her home there and not for a temporary purpose. A child is a resident of the State in which he or she is living other than on a temporary basis. Residence may not depend upon the reason for which the individual entered the State, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(ii) Who, at the time of application, is living in the State, is not receiving assistance from another State, and entered the State with a job commitment or seeking employment in the State (Whether or not currently employed). Under this definition, the child is a resident of the State in which the caretaker is a resident.

(2) Residence is retained until abandoned. Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

(b) *Exception.* A State plan under title I, X, XIV, or XVI need not include an individual who has been absent from the State for a period in excess of 90 consecutive days (regardless of whether the individual has maintained his or her residence in the State during this period) until he or she has been present in the State for a period of 30 consecutive days (or a shorter period specified by the State) in the case of such individual who has maintained his residence in the State during such period of absence or for a period of 90 consecutive days (or a shorter period as specified by the State) in the case of any other such individual. An individual thus excluded under any such plan may not, as a consequence of that exclusion, be excluded from assistance under the State's title XIX plan if otherwise eligible under the title XIX plan (see 42 CFR 436.403).

[FR Doc. 79-21823 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Regulations Describing Non-Toxic Shot Zones for Waterfowl Hunting Seasons Commencing in 1979.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule establishes areas in which non-toxic shot will be required for waterfowl hunting in hunting seasons commencing in 1979. When eaten by waterfowl, spent lead pellets have a toxic effect. The zones described in this final ruling are established to reduce the number of deaths to waterfowl as a result of eating spent lead pellets. The only approved non-toxic shot available at this time is steel shot.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert I. Smith, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-254-3207).

SUPPLEMENTARY INFORMATION:

Background

Research on the problem of lead poisoning in waterfowl has been conducted for the past 25 years. The complexities of the issue have been explored with conservationists, ammunition manufacturers, and State fish and game departments. During the past seven years the Service has studied lead poisoning of waterfowl in cooperation with organizations representing a broad cross section of interests affected by and concerned with the problem.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the Service prepared a Final Environmental Statement (Use of Steel Shot for Hunting Waterfowl in the United States). This document was published in January 1976 and is available from the Service on request.

On March 20, 1976, the Secretary of the Interior announced a plan for the progressive implementation of steel shot. According to this plan, shotshells loaded with non-toxic shot were to be required for hunting waterfowl in designated areas of the Atlantic Flyway in 1976, in designated areas of the Mississippi Flyway in 1977, and in designated areas of the Central and Pacific Flyways in 1978.

On July 28, 1976, a final rule on the use of steel shot for waterfowl hunting was published in the **Federal Register** (41 FR 31386-89) and became effective August 27, 1976. On September 13, 1976, the Service published an amendment to 50 CFR 20.105(e) containing descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic Flyway in 1976 (41 FR 38772-38774).

On April 28, 1977, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic and Mississippi Flyways in hunting seasons commencing in 1977 (42 FR 21616-18). On February 28, 1978, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in portions of 32 States in 1978 (43 FR 8144-8149). However, appropriated funds for the Department of the Interior (Pub. L. 95-465) for Fiscal Year 1979 were restricted in their use by the following provision:

> No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

As a result of the above restriction placed on the implementation of the non-toxic shot regulations, nine of the 32 States having such regulations did not approve their implementation in part or in total. States that did not approve the implementation of the regulations in part or in total were Arkansas, California, Idaho, Louisiana, Nevada, North Carolina, Ohio, Oregon, and Washington. In these States, where unapproved, the regulations were not enforced during the 1978-79 hunting season. The provisions of Public Law 95-465 remain in effect until September 30, 1979.

On January 12, 1979, a proposal to amend 50 CFR 20.108 was published in the **Federal Register** (44 FR 2629-2633). This publication contained proposed descriptions of areas in which non-toxic shot would be required for waterfowl hunting in hunting seasons commencing in 1979. This proposal contained descriptions of areas which account for approximately one third of the waterfowl harvest of the Atlantic and Mississippi Flyways and approximately 6 percent of the waterfowl harvest of the Central and Pacific Flyways. With minor modifications it proposed areas similar to those identified in 1978 (43 FR 1344-49).

Summary of Public Comment and Service Responses

Between January 12, 1979, and March 1, 1979, public comment on the proposed non-toxic shot zones for 1979 was received. Two hundred and four letters were received, and they contained 474 signatures. Included were letters from 15 State Fish and Game Departments and one national organization. Letters containing 438 signatures expressed opposition to the proposal. Letters containing 35 signatures expressed agreement with the proposal.

Objections to the proposal are listed below and are ranked according to the frequency mentioned.

1. The performance of steel shot is unacceptable.

2. The manner in which the proposed areas were selected is unacceptable.

3. The price of steel shotshell loads is too high.

4. Steel shot causes damage to gun barrels.

5. Steel shotshell loads are not available in any gauge other than 12-gauge.

The Service makes the following responses to the above-mentioned comments.

1. *Performance of steel loads.* The primary objection to steel shot performance relates to the number of downed birds that are unretrieved. Some hunters have commented that the number of birds lost in this manner increases when steel shot is used. Numerous tests comparing the ballistic performance of lead shot and steel shot have been conducted over the past ten years. None of these tests have indicated that steel shot will cause excessive losses from crippling when compared to the performance of the lead loads used most frequently by waterfowl hunters. Tests conducted in 1977 and 1978 in goose hunting areas, provided further evidence in support of this conclusion.

2. *Selection of non-toxic shot zones.* Lead is a toxic substance when ingested by waterfowl. Waterfowl that contain elevated levels of lead in their blood and other body tissues do so primarily as a result of eating lead pellets. It is the intention of the Service to reduce the amount of lead being eaten and absorbed into the blood and tissues of waterfowl. Information being gathered includes the incidence of shot in waterfowl gizzards, lead in blood samples drawn from live waterfowl, analyses of waterfowl tissues such as liver and bone, and the frequency with which waterfowl are found dead as a result of lead poisoning. These data are providing the basis for selection of non-toxic shot zones.

3. *Price of steel loads.* In the fall of 1978 the retail prices of steel loads were recorded at several locations throughout the United States. The 1⅛ ounce steel loads ranged in price from $7.50 to $10 per box of 25 shells. Heavier loads of steel ranged in price from $10 to $14.50 per box. This represented an increase of $3 to $5 per box, when the price of steel loads was compared to that of lead loads.

The Service has no way to accurately assess the extent to which the retail price of steel shotshell loads reflects mark-ups versus cost of production. In 1976 the Service estimated that steel loaded shotshells would retail at 50 percent more than comparable lead loads. At the present time the Service has no information to indicate that the comparative cost of production should result in larger differences in retail prices. The cost of ammunition represents about 10 percent of the total cost of waterfowl hunting, based upon the *National Survey of Hunting and Fishing* conducted in 1970 by the U.S. Department of the Interior. The Service believes that the protection provided to waterfowl outweighs the added cost of steel shotshells and finds no basis for withdrawal of the proposal for this reason.

4. *Damage to gun barrels.* The potential problem of barrel damage with steel shot is one of choke expansion which, when it occurs, appears as a slight ring-bulge near the muzzle. Tests conducted by manufacturers indicate that the degree of choke expansion varies with different types and models of shotguns.

There is no evidence that choke expansion poses any safety hazards beyond those normally existing with any ammunition. A slight change in patterning might result from choke expansion, but the tests indicate that such changes are usually very minor and may actually result in slight increases in pattern density. Moreover, choke expansion is not a problem unique to steel shot. In some guns it was found to occur also with lead shot, although to a lesser degree. The potential for choke expansion is greater in guns with full-choke constrictions than those with modified or improved cylinder constrictions. The Service does not believe that barrel damage from use of steel shot represents a basis for withdrawal of the proposed areas where steel shot will be required in 1979.

5. *Availability of steel shot in 12-gauge only.* The variety of steel shot loads available to waterfowl hunters increases each year. Since the 12-gauge gun is the most popular gauge for waterfowl hunting (constituting about 80 percent), development of new loads has occurred only in this gauge. The Service understands that the continued use of toxic shot in gauges other than 12-gauge severely reduces the effectiveness of the non-toxic shot regulations. The Service believes that the fall of 1980 represents an adequate time interval for manufacturers to develop a more complete line of non-toxic shotshell loads and the regulations place this time limit on exceptions to the non-toxic shot ruling based on gauge of gun (as previously discussed in 44 FR 2597–99).

Changes in Proposed Zones

Several changes from the proposed non-toxic shot zones for 1979 were incorporated into these final rules. These changes were based on information provided during the public comment period.

Michigan. Several errors in the descriptions of proposed nontoxic shot areas in Michigan were noted by the Michigan Department of Natural Resources. These errors have been corrected as requested by the Michigan Department of Natural Resources.

Arkansas. Areas proposed for Arkansas included the Counties of Poinsett and Arkansas and that portion of Bayou Meta Wildlife Management Area in Jefferson County. A report submitted to the Service by the Arkansas Game and Fish Commission indicates that the incidence of shot in mallard gizzards examined in 1977 was 4.1 percent in Arkansas County, 4.3 percent in Jefferson County, and 4.7 percent in Poinsett. The Arkansas Game and Fish Commission has requested that these areas be withdrawn from the final ruling and the Service concurs with this request.

Idaho. The area proposed for Idaho included the Deer Flat National Wildlife Refuge. Studies conducted on the area indicate that 4 percent of the mallards bagged by hunters on the area contain ingested lead shot. At the request of the Idaho Department of Fish and Game this area has been withdrawn from the final ruling.

Illinois. Areas designated as counties and several other areas were withdrawn from the final ruling for Illinois. These were withdrawn at the request of the Illinois Department of Conservation. Future decisions relating to these areas will be based upon studies to be conducted at specific locations.

California. Non-toxic shot areas in California will be designated by State regulation. This was requested by the State and granted by the Service.

Delaware. Non-toxic shot areas in Delaware were identified in more specific terms by the State of Delaware. These more specific descriptions replace the proposed descriptions.

New York. Studies to determine the incidence of shot in the digestive tracts of waterfowl in New York resulted in adjustments in the boundaries of zones proposed for New York.

Other Information

The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis. An Environmental Assessment was prepared and a negative declaration filed.

Accordingly, 50 CFR, Chapter I, Subchapter B, Subpart K is amended by removing the non-toxic shot zone descriptions for 1978 and replacing them with the following non-toxic shot zone description for 1979.

§ 20.108 Non-toxic shot zones.

The areas described within the States indicated below are designated for the purpose of § 20.21(j) as non-toxic shot zones for waterfowl hunting seasons commencing in 1979.

Atlantic Flyway

Connecticut

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford Point extending south to Stratford Point, north along Prospect Drive and Rte. 113 to Interstate 95, easterly along I–95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.

2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point road and Interstate 91, extending south along I–91 to Rte. 5, northerly along Rte. 5 to Sackett Point Road, and easterly along Sackett Point Road to I–91.

Delaware

All lakes, ponds, marshes, swamps, bays, rivers, and streams or within 150 yards thereof within the boundaries of the following areas:

1. Chesapeake and Delaware Canal State Wildlife Area.
2. Augustine State Wildlife Area.
3. Woodland Beach State Wildlife Area.
4. Little Creek State Wildlife Area.
5. Prime Hook State Wildlife Area.
6. Bombay Hook National Wildlife Refuge.
7. Prime Hook National Wildlife Refuge.
8. That southeast portion of the State of Delaware bounded on the east by the Atlantic Ocean, bounded on the south by the State of Maryland, and bounded on the west and north by a line along Route 113 northwest from the Delaware-Maryland border to Route 24, thence northeast along Route 24 to Route 1, thence northwest along Route 1 to Route 9, thence northeast along Route 9 to Cape Henlopen Point.

Florida

In Oceola, Broward, Dade, Glade, and Leon Countries and on Lake Miccosukee, which lies in Leon County and the adjacent portions of Jefferson County. In that portion of Brevard County lying east of Interstate Highway 95, and on Orange Lake and Lochloosa Lake in Alachua County.

Maine

On the waters of the Kennebec River known as Merrymeeting Bay bounded as follows: from the high tension wires at Chops Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset, and Eastern Rivers and the Richmond-Dresden bridge on the Kennebec River, and within a 150-yard zone of land adjacent to the margins of these waters in the counties of Cumberland, Sagadahoc and Lincoln.

Maryland

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and Chesapeake Bay) in Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent and Cecil Counties and those portions of Harford, Baltimore, and Anne Arundel Counties lying south and east of U.S. Route 1, and within a 150-yard zone of land in the above counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

Massachusetts

Essex County: *North Boundary*—Massachusetts-New Hampshire line (Salisbury). *West Boundary*—U.S. Route 1 from State line southward to juncture with 1A in Newburyport, southward on 1A through the towns of Newbury and Rowley to juncture with 133 in Rowley and further south along combined routes 133–1A through Ipswich. *South Boundary*—juncture of 133 and 1A in Ipswich east along Route 133 through Essex and Gloucester to juncture of 133 and Route 128 in Gloucester. East along 128 to west bank of Annisquam River. *East Boundary*—west bank of the Annisquam River north to Ipswich Bay continuing north along the shoreline at Ipswich Bay the Atlantic Ocean to New Hampshire-Massachusetts line.

Plymouth County: *North Boundary*—Route 139 from the west bank of Green Harbor River (Marshfield) west to juncture with Route 3A (Duxbury). *West and South Boundary*—Route 3A from juncture of 139 south along 3A through towns of Duxbury, Kingston and Plymouth to juncture with Rocky Hill Road in Plymouth. *East Boundary*—Line extending from juncture of Route 3A and Rocky Hill Road in Plymouth north to Plymouth Light House on Duxbury Beach and further north along ocean side of Duxbury Beach to the west bank of the Green Harbor River in Marshfield. Also—waters of the Wareham and Weweantic Rivers in the towns of Wareham and Marion and the marshes adjacent to these rivers and within a 150 yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

Barnstable County: Barnstable Marshes *North Boundary*—Cape Cod Bay. *West Boundary*—from Cape Cod Bay south along Sandy Neck Road in the towns of Barnstable and Sandwich to juncture with Route 6A in E. Sandwich. *South Boundary*—juncture of Sandy Neck Road and Route 6A in E. Sandwich east along 6A through E. Sandwich, Barnstable, Yarmouth and Dennis to juncture with New Boston Road. *East Boundary*—North along New Boston Road to Beach Street and, north along Beach Street to Cape Cod Bay. Also—Nauset Marshes—Pleasant Bay. *North Boundary*—Nauset Beach west along Doane Road in Eastham to juncture Nauset Road continuing southwest along Nauset Road to juncture with 6 in Eastham. *West Boundary*—south along Route 6 from juncture of Route 6 and Nauset Road in Eastham to juncture of Route 6 and 6A, south along Route 6A to juncture with Route 28 in Orleans, and south along Route 28 to juncture with Shore Road in Chatham to Chatham Lighthouse. *South Boundary*—line extending from Chatham Lighthouse to Atlantic Ocean. *East Boundary*—Atlantic Ocean.

Bristol County: Waters of the Wareham River, Weweantic River, East Branch of the Westport River, and the West Branch of the Westport River, and the marshes adjacent to these rivers, and within a 150-yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

New Jersey

That portion of the State bounded on the north by Highway 36 from its intersection with the Garden State Parkway near Keyport eastward to the Atlantic Ocean (south of Raritan Bay and Sandy Hook Bay), bounded on the west by the Garden State Parkway, and bounded on the south by the Cape May Canal.

New York

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams and ocean waters) of that portion of New York west of Interstate Highway 81 and north of the New York State Thruway (Interstate Highway 90) and in those portions of Nassau and Suffolk Counties bounded on the south by the Long Island shoreline from the Captree Parkway west to the Nassau County—New York City line; on the west from the New York City—Nassau County line northward from the Long Island shoreline to the Sunrise Highway (Route 27); on the north by the Sunrise Highway

(Route 27) eastward to its junction with the Captree Parkway; on the east by the Captree Parkway (Route 46) southward to the Long Island shoreline and within a 150-yard zone of land in the above areas adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above and the waters of Lake Ontario, outside the barrier beach, from the mouth of the Salmon river in Oswego County to the mouth of the Niagara River in Niagara County are excluded from the non-toxic shot requirements.

North Carolina

1. All waters (including sounds, lakes, ponds, marshes, swamps, rivers, and streams) of Currituck, Dare, and Pamlico Counties and within a 150-yard zone of land in these counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

2. The waters of the Cape Fear River and its tributaries in New Hanover and Brunswick Counties and a 150-yard zone of land adjacent to the waters of this river and its tributaries in these two counties.

Pennsylvania

Crawford County, Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties, and the waters of the Susquehanna River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehanna River that are described above.

Rhode Island

That portion of Washington County lying south and east of U.S. Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

South Carolina

Georgetown, Colleton, Charleston, and Beaufort Counties.

Virginia

All waters and a 150-yard zone of land adjacent to these waters in the City of Virginia Beach and in an area between the York River and the James River bounded on the north by U.S. Highway 60, on the west by Highway 155, and on the south by Highway 5.

Mississippi Flyway

Illinois

Carlyle Lake and Wildlife Management Areas, Rend Lake and Wildlife Management Areas, Oakwood Bottoms, Sangchris Lake, Mermet Lake, Rice Lake, Union County Public Shooting Area, Horseshoe Lake (Alexander County) Public Shooting Area, Sanganois, Glades, and Stump Lake.

Indiana

1. On all waters of Lake, Porter, LaPorte, Newton, Jasper, Starke, Elkhart, Kosciusko, LaGrange, Steuben, and Posey Counties and within 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. Within the boundaries of the following State-owned or State-operated properties: Jasper-Pulaski Fish and Wildlife Area in Pulaski County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservoir in Monroe and Brown Counties, and Glendale Fish and Wildlife Area in Daviess County, and the Tri-County Fish and Wildlife Area in Noble and Kosciusko Counties.

3. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

Iowa

In Fremont and Mills Counties on all waters and a 150-yard zone of land in these two counties adjacent to waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Missouri River and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

Louisiana

1. That portion of Vermilion Parish lying north of the Intracoastal Waterway.

2. That portion of Calcasieu Parish lying south of Interstate Highway 10.

3. That portion of Cameron Parish lying north of the Intracoastal Waterway.

4. On the west side of Calcasieu Lake that portion of Cameron Parish lying west of Highway 27 and north of the boundary of the Sabine National Wildlife Refuge.

5. In that portion of the State bounded as follows: From Pineville northeast along State Highway 28 to Archie, then northwest along U.S. Highway 84 from Archie to Jena, then southwest along State Highway 8 from Jena to Pollock, then south along U.S. Highway 165 from Pollock to Pineville.

6. The green-tree reservoir located on the Saline Wildlife Management Area.

Ohio

On all waters of Erie, Ottawa and Lucas Counties and within a 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the nontoxic shot requirement.

Michigan

1. Saginaw Bay Area—That area of Iosco, Arenac, Bay, Saginaw, Tuscola and Huron counties:

Beginning at a point at the tip of Tawas Point in Sec. 3, T21N, R8E, Iosco County; northeast north and west on Tawas Point Road to its intersection with highway US–23 (Sec. 21, T22N, R8E); south and west on highway US–23 in Iosco and Arenac counties to the intersection with highway M–13 (Sec. 2, T18N, R4E, Arenac County); south on highway M–13 in Arenac and Bay counties to the intersection with interstate highway I–75 (Sec. 13, T14N, R4E); south on I–75, US–23 to the intersection with highway US–10 (Sec. 24 T14N, R4E); west on highway US–10 to the intersection with Garfield Road (northeast corner Sec. 27, T14N, R3E); south on Garfield Road in Bay and Saginaw counties to the intersection with Tittabawassee Road (southwest corner Sec. 35, T13N, R3E); west on Tittabawassee Road to intersection with Graham Road (northwest corner Sec. 4, T12N, R3E); south on Graham Road to the junction of highways M–46 and M–52 (west quarter corner Sec. 28, T12N, R3E); south on highway M–52 to highway M–57 (southwest corner Sec. 7, T9N, R3E); east on highway M–57 to highway M–13 (southeast corner Sec. 13, T9N, R4E); north on highway M–13 to Burt Road (northwest corner Sec. 31, T10N, R5E); east on Burt Road to highway I–75, US–10 and US–23 (Sec. 28, T10N, R6E); north on highway I–75 to highway M–46 (Sec. 28, T12N, R5E); east on highway M–46 to North Gera Road southeast corner (Sec.

27, T12N, R6E); north on North Gera Road to highway M–15 (Sec. 23, T12N, R6E); north on highway M–15 in Saginaw and Bay counties to Munger Road (Sec. 18, T13N, R6E); east on Munger Road (M–138) in Bay County and Fairgrove Road (M–138), in Tuscola County to Vassar Road (southeast corner Sec. 13, T13N, R7E); north on Vassar Road to highway M–25 east quarter corner (Sec. 13, T14N, R7E); east and north on highway M–25 in Tuscola and Huron counties to Kinde Road (Sec. 35, T18N, R10E); east on Kinde Road to highway M–53 (southeast corner Sec. 36, T18N, R12E); north on highway M–53 to the junction with highway M–25 (Sec. 30, T19N, R13E); north from that point to the shoreline of Lake Huron and then northwesterly from this point to the point of beginning (tip of Tawas Point in Iosco County).

2. Houghton Lake Area—That area of Roscommon, Missaukee, Kalkaska and Crawford counties:

Beginning at the intersection of State Highway M–55 and highway M–76 in Roscommon County (southeast corner Sec. 10, T22N, R1W); north on highway M–76 to the Village of Roscommon, then west and south on county road 100 to the intersection of county road 104 (Sec. 32, T24N, R3W); west on county road 104 to the intersection of highway US–27 (Sec. 34, T24N, R4W); north on highway US–27 to the intersection of Fletcher Road in Crawford County (Sec. 23, T25N, R4W); west and northwest on Fletcher Road to county road 571 in Kalkaska County (Sec. 8, T25N, R6W); south on county road 571 to highway M–55 in Missaukee County (Sec. 32, T23N, R6W); then east on highway M–55 to the point of beginning.

3. Eastern Upper Peninsula Area—That area of Mackinac and Chippewa counties:

Beginning at the point where the Mackinac Straits Bridge intersects the Lake Huron shoreline of Mackinac County north on highway I–75 to highway M–134 (Sec. 4, T42N, R3W); lost on highway M–134 to highway M–129 (southeast corner Sec. 25, T42N, R1W); north on highway M–129 to business loop I–75 (Sec. 7, T47N, R1E); north on business loop I–75 to downtown Sault Ste. Marie and extending on a line northward to the International Boundary between U.S. and Canada; east and south along the International Boundary on the St. Marys River north channel and Lake Huron to a point west of the southwest corner of Cockburn Island (in Canada); west from that point on the International Boundary in Lake Huron to the south tip of Goose Island lying southwest of Marquette Island; continuing southwest in Lake Huron to the southernmost point of Mackinac Island and then west to the point of beginning.

4. Southwestern Michigan Area—That area of Muskegon, St. Joseph, Newago, Ottawa, Allegan, Van Buren, Cass, Kalamazoo, Calhoun, Barry, Ionia, Branch, and Kent counties:

Beginning at the southwest meandor corner of Sec. 4, T12N, R18W, Muskegon County, west on a line across Lake Michigan to the State boundary between Michigan and Wisconsin; south along the State boundary to a point directly west of the mouth of the Black River (Sec. 9, T1S, R1W) Van Buren County; east along a line to the mouth of the Black River (Sec. 9, T1S, R17W); upstream along the south shore of the Black River to highway US–31, then southerly along highway US–31 to highway M–43 (Sec. 14, T1S, R17W); easterly along highway M–43 in Van Buren County to the junction with M–40 (Sec. 13, T2S, R14W); southerly along M–40 to the junction of M–216 (Marcellus) (Sec. 16, T5S, R13W) Cass County; easterly along M–216 to junction of US–131 (Sec. 19, T5S, R11W); south on US–131 and Business US–131 to junction with M–60 (Sec. 18, T6S, R11W) St. Joseph County; north on M–60 and M–66 to the junction with I–96 (Sec. 25, T6N, R7W) Ionia County; west on I–76 to the junction with M–37 (Sec. 13, T7N, R12W) Kent County; north on M–37 to 112 St. (north quarter corner Sec. 13, T11N, R13W); west on 112 St. to Warner Road (Sec. 13, T11N, R14W); north on Warner Road to Roth Road (NE corner, Sec. 26, T12N, R14W); west on Roth Road to Maple Island Road to highway M–20 (southwest corner, Sec. 31 T13N, R14W) and continuing north on M–20 to Skeels Road (northeast corner Sec. 1, T12N, R15W); west on Skeels Road to Nichols Road (Sec. 2, T12N, R16W); south on Nichols Rd. to Fruitville Rd. (Sec. 2, T12N, R16W); west on Fruitville Road to highway US–31 (Sec. 9, T12N, R17W); north on highway US–31 to Meinert Road (Sec. 4, T12N, R17W); west on Meinert Road to the southwest meandor corner Sec. 4, T12N, R18W (the point of beginning).

5. Southeastern Michigan Area—That area of Shiawassee, Washtenaw, Genesee, Livingston, Oakland, Lenawee, Jackson, Wayne, Ingham, St. Clair, Macomb and Monroe Counties.

Beginning at a point on the Blue Water Bridge at the International Boundary between the United States and Canada (Sec. 35, T7N, R17E) St. Clair County; westerly and south on highway I–94 in St. Clair, Macomb counties to the junction with M–59; west on M–59 to the junction with highway I–75 in Oakland County; northwest along highway I–75 to the junction with highway I–69 in Genesee County; southwest along highway I–69 to the junction with highway M–52 (Sec. 9, T5N, R2E) Shiawassee County; south on M–52 to the junction with highway M–36 (Sec. 22, T2N, R2E) Ingham County; west on M–36 to the junction with highway US–127 (Sec. 6, T2N, R1W) Ingham County; south along US–127 in Ingham and Jackson counties (through City of Jackson) to the junction with highway US–12 (Sec. 7, T5S, R1E) Lenawee County; easterly on US–12 to the junction with highway I–94 (Sec. 18, T3S, R7E) Washtenaw County; easterly on I–94 to the junction with highway I–275 in Wayne County; southerly along I–275 to the junction with I–75 in Monroe County; southerly along I–75 to the State line (Sec. 5, T17S, R8E); east along the State line between Michigan and Ohio to the shoreline of Lake Erie; northeasterly along the State line to the International Boundary in Lake Erie, northerly along the International Boundary in Lake Erie, the Detroit River, Lake St. Clair and the St. Clair River to the point of beginning.

Minnesota

1. All waters within the boundaries of all State Wildlife Management Areas and Federal Waterflowl Production Areas and within a 150–yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement. Controlled hunting zones of goose management areas are excluded from this provision, except the Roseau Wildlife Management Area which is included.

2. On the waters on Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborh County, and Christina Lake in Douglas and Grant Counties and within a 150–yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCresent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the Southern and Eastern boundaries of the State to the

confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

Missouri

Within the following areas on all waters and a 150-yard zone of land within the areas adjacent to these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded lands of all types. Drainage ditches and temporary sheet water more than 150-yards from water areas described above are excluded from the non-toxic shot requirement. On the Schell-Osage Wildlife Area and the Duck Creek Wildlife Area, where shooting tests will be conducted by the Missouri Conservation Department and the U.S. Fish and Wildlife Service, lead shot can be used in addition to steel shot by participants in the tests.

1. Squaw Creek Area: North boundary—Iowa-Missouri State line. East boundary—U.S. Highway I–29. South boundary—St. Joseph, Missouri city limits. West boundary—East bank of the Missouri River.

2. Swan Lake—Fountain Grove Area: North boundary—U.S. Highway 36. East boundary—State Highway 5. South boundary—State Highway 240 and U.S. Highway 65. West boundary—U.S. Highway 65.

3. Upper Mississippi River Area: North boundary—U.S. Highway 36. East boundary—Illinois-Missouri State line. South boundary—North bank of the Missouri River. West boundary—U.S. Highway 61.

4. Montrose—Schell-Osage Area: North boundary—State Highway 7. East boundary—State Highway 13. South boundary—U.S. Highway 54. West boundary—U.S. Highway 71.

5. Duck Creek—Mingo Area: North boundary—State Highway 34. East boundary—State Highways 51, 91, and 25. South boundary—U.S. Highway 62. West boundary—U.S. Highway 67 and State Highway 53.

Tennessee

Camden, Big Sandy, New Hope, Lick Creek and Harmon's Creek Wildlife Management Areas.

Wisconsin

1. In that portion of the State lying west of the Burlington Northern Railroad in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties.

2. On all waters in the counties of Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowoc, Marquette, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Waukesha, Winnebago, Washington, Waupaca and Waushara, all of the Wisconsin River in Juneau and Adams Counties, and those portions of Oconto and Marinette Counties east of U.S. Highway 41, and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County islands in Green Bay and within a 150-yard zone of land adjacent to the margins of these waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above and the open water of Lake Michigan are excluded from the non-toxic shot requirements. All county boundary waters and lakes partially within a steel shot zone are totally included.

3. On any State wildlife area within the zones described in (2), steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas which are not within the zones described in (2): Mead Wildlife Area in Marathon, Wood and Portage Counties, Wood County Wildlife Area and Sandhill Wildlife Area in Wood County, Meadow Valley Wildlife Area in Juneau County.

Central Flyway

Kansas

Barton County: The Cheyenne Bottoms Wildlife Area except the south 200 yards west of U.S. 156 and east of the north-south centerline of S36, T18S, R13W in Barton County.

Linn County: All of the Marais des Cygnes Wildlife Areas.

Montgomery County: All of the Elk City Reservoir and Wildlife Area including all lands and waters managed by the U.S. Corps of Engineers and the Kansas Forestry, Fish and Game Commission.

Neosho County: All of the Neosho Wildlife Area.

Reno County: All of the Chenney Reservoir and Wildlife Area including all lands managed by the U.S. Bureau of Reclamation and the Kansas Forestry, fish and Game Commission. Also, that portion of Quivira National Wildlife Refuge in Reno County.

Stafford County: that portion of the Quivira National Wildlife Refuge in Stafford County.

Rice County: That portion of the Quivira National Wildlife Refuge in Rice County.

Nebraska

Clay and Fillmore Counties and in Kearney and Phelps Counties except on the waters of the Platte River.

Texas

J. D. Murphree Wildlife Management Area and Sea Rim State Park in Jefferson County.

Pacific Flyway

Nevada

The Stillwater Wildlife Management Area.

Oregon

Beginning at the Longview Bridge on the Columbia River, thence south on State Highway 30 to Portland, thence east from Portland along Interstate Highway 80N to the Bonneville Dam, thence down the Columbia River along the Oregon-Washington boundary to the Longview Bridge and point of origin.

Washington

1. Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along Highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 538 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

2. Beginning at the Conway junction of Highway 530 and Fir Island Road, northwesterly along Fir Island Road to the Chilberg Road; thence northwesterly along Childberg Road to LaConner and the Swinomish Channel; thence southerly and westerly along the red buoy line of Swinomish Channel to the Island County line; thence southeasterly along Island County line to State Highway 532; thence easterly along Highway 532 to State Highway 530 at Stanwood; thence northerly along State Highway 530 to the point of origin.

3. Beginning at the Longview Columbia River Bridge, thence north and east on Highways 833 and 832 to Interstate 5; thence southerly along I–5 to State Highway 14 in Vancouver; thence easterly along Highway 14 to the Skamania County line; thence southerly along said County line to the Columbia River; thence down the Columbia river along the Oregon–Washington State boundary to the Longview Bridge and point of origin.

This final rule was authored by Robert I. Smith, Office of Migratory Bird Managment, U.S. Fish and Wildlife

Service, Department of the Interior, Washington, D.C. 20240, 202–254–3207.

Dated: July 12, 1979.

Michael J. Spear,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79–22029 Filed 7–16–79; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

Alaska Salmon Fishery; Correction of Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Correction of Emergency Regulations.

SUMMARY: Emergency regulations implementing the Fishery Management Plan (FMP) for the "High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude", originally published in the **Federal Register** on May 18, 1979, were repromulgated on July 9. This correction rectifies an inconsistency between these emergency regulations and regulations of the State of Alaska. The emergency regulations permit retention of salmon which have had the adipose fin clipped or removed, indicating implantation of a coded wire tag, even if the fish are less than the minimum length specified, whereas the State of Alaska prohibits retention of sublegal salmon, whether or not such fin is clipped. This correction brings the emergency regulations into conformity with the State of Alaska regulations.

EFFECTIVE DATE: July 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone: 907–586–7221.

Signed at Washington, D.C., this the 11th day of July, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 USC 1801 *et seq.*)

PART 674—ALASKA SALMON FISHERY

§ 674.21 [Amended]

Amend 50 CFR 674.21(c) by striking "even if" and substituting "unless".

[FR Doc. 79–22048 Filed 7–16–79; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 44, No. 138
Tuesday, July 17, 1979

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.

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 40, 50, 70, 75, 150 and 170]

Safeguards on Nuclear Material; Implementation of US/IAEA Agreement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Revised proposed rule.

SUMMARY: In May 1978 the Commission published proposed amendments to its regulations which would enable the United States to Implement the US/IAEA Safeguards Agreement, with respect to licensed activities, as soon as the Agreement enters into force. Extensive comments were received and considered. The Commission is now publishing revised proposed amendments for public comment.

DATES: Comment period expires August 31, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Mr. L. C. Solem, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–443–5903); Mr. James R. Wolf, Office of Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–8694); or Mr. Paul K. Morrow, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–427–4004).

SUPPLEMENTARY INFORMATION: On May 25, 1978, the Nuclear Regulatory Commission published in the **FEDERAL REGISTER** (43 FR 22365) proposed amendments to Parts 40, 50, 70, and 150 and a new proposed Part 75 to Title 10, Code of Federal Regulations. Interested persons were invited to submit written comments or suggestions in connection with the proposed amendments within 60 days after publication in the **FEDERAL REGISTER.** On November 21, 1978, the Commission published a notice (43 FR 54255) regarding the availability of certain supplemental documents and extending the period of comment for 30 days. Upon consideration of the comments received, the Nuclear Regulatory Commission has decided to publish revised proposed amendments to Title 10, Chapter 1, Code of Federal Regulations to obtain further public comment, particularly with respect to the changes that have been made.

Overview

The United States, as a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), has joined with other nations in an effort to limit the spread of nuclear weapons. To encourage widespread adherence to the NPT by non-nuclear-weapon States, President Johnson in 1967 announced that the United States would permit IAEA to apply its safeguards to nuclear activities in this country—excluding only those with direct national security significance. This policy has been reaffirmed by each succeeding President and has been referred to by other Governments as a consideration affecting their decision to ratify the NPT.

The instrument for applying IAEA safeguards in the United States would be a formal Agreement between the U.S. Government and the International Atomic Energy Agency, which has been submitted to the U.S. Senate for its advice and consent to ratification as a treaty. The US/IAEA Agreement contains provisions which parallel agreements between IAEA and non-nuclear-weapon States, the principal difference being the exclusion of national security activities. Implementation of the agreement would require the cooperation of NRC licensees, in accordance with appropriate regulations. The proposed rules that were published last May, and the revised proposed rules published here, are the means by which the Agreement could be implemented with respect to licensed activities.

The Commission has decided to republish the proposed rules, with changes, to afford further opportunity for licensee participation and public comment. The revisions that have been made reflect the Commission's perception that licensees have an important role in the formulation of policies and procedures that will apply to their activities and that areas of uncertainty and disagreement regarding the application of the rules to licensee activities should be minimized. An attempt has been made to state the requirements as clearly as possible and to provide an active role for licensees (especially in the preparation of Facility Attachments) while at the same time making sure that the objectives of the Agreement can be implemented effectively.

The principles underlying the agreement appear to have widespread support. Indeed, as one commenter remarked, United States utilities have long cooperated actively with efforts to strengthen IAEA safeguards. The commenter went on to suggest, however, that the proposed rule "fails to reflect adequately the cooperative spirit which has characterized the government-industry relationship." The Commission hopes that the changes that have been made in response to the public comments will satisfy this and other statements of concern.

Changes

Significant differences from the proposed amendments published for comment on May 25, 1978 are: (1) special transitional provisions have been included applicable to installations where licensed materials will be received within a short time after the effective date of the regulations; (2) the relationship of Part 75 to persons not yet licensed to posses source or special nuclear material has been clarified; (3) the exemption provision has been amended to provide for exemption of certain uses of nuclear material that are insignificant from a safeguards point of view; (4) the term "inventory change" has been defined; (5) the definition of "ore processing" operations, which are not subject to the regulations, has been expanded; (6) the definition of "surveillance" has been revised to conform more precisely to IAEA usage; (7) a more detailed statement regarding the verification of IAEA representatives' credentials has been provided; (8) the requirements with respect to installation information have been related more

specifically to the provisions of the Agreement; (9) provision is made for consultation with licensees in connection with the preparation of Facility Attachments; (10) the provisions relating to the withholding of sensitive information from transmission to the Agency have been clarified, and allowance has been made in certain cases for withholding at Commission initiative; (11) procedures for verification of installation information have been revised to accommodate certain concerns of licensees; (12) the requirement for immediate implementation of material accounting and control procedures has been changed; (13) material balance reporting requirements have been changed to conform to domestic safeguards practice; (14) circumstances requiring special reports have been particularized; (15) provisions relating to advance notification and the accompanying of IAEA representatives have been included in the sections pertaining to inspection; (16) the description of authorized activities of inspectors has been stated more fully; (17) provisions regarding advance notification of shipments have been rewritten to assure greater flexibility; (18) restrictions upon the breaking of IAEA seals have been liberalized; (19) reimbursement provisions have been rewritten to clarify licensees' rights; and (20) license fee regulations have been amended to exempt licensees from fees for NRC activities in implementation of the Agreement.

The following discussion pertains to items (1) through (20) above. (Also, in addition to certain changes in style, minor clarifying amendments are made in revised definitions of "effective kilogram" in § 40.4(p) and "containment" in proposed § 75.4(f).)

(1) *Transitional provisions.* Certain sections of the proposed regulations call for the filing of installation information at least 9 months prior to the date licensed material was to be received. Commenters noted that if these provisions were to apply when the regulations became effective, it might be necessary for affected persons to reschedule operations scheduled during the next 9-month period. To avoid such a result, revised §§40.31, 70.21, and 150.17 a permit submission as early as possible in such cases instead of 9 months in advance. (In addition, to correct an inadvertent omission cited by one commenter, § 70.21 has been amended to provide for submission of information more than 9 months in advance upon request by the Commission.)

(2) *Scope.* One commenter stated that the scope of Part 75 should be modified to reflect its applicability to persons not yet licensed to posses nuclear material. The suggestion has been adopted in revised § 75.2.

(3) *Exemptions.* § 75.3 provides for exemptions from the requirements of Part 75 that are, among other things, consistent with the Agreement. Without limiting the generality of that provision, it appears appropriate to make reference to a particular set of circumstances when an exemption is clearly contemplated by the Agreement itself—namely, as provided in Article 36, when the United States requests the exemption of certain nuclear material which would otherwise be subject to safeguards. The uses that are subject to exemption under Article 36 are gram quantities of special nuclear material as instrument sensing components, recoverable nuclear material used in non-nuclear activities, and plutonium with an isotopic concentration of plutonium-238 exceeding 80%.

(4) *"Inventory change."* Commenters stated that compliance with the requirement for maintaining "real time" accounting records of inventory changes in an operating reactor is not possible due to the nuclear processes at work. There was no intention to impose any such requirement. The concern prompted the Commission to insert in § 75.4 a definition of "inventory change", dervied partially from Article 90 J of the Agreement, that refers to increases or decreases, in terms of batches, of nuclear material in an IAEA material balance area. The definition in the regulations adds the clause "established in accordance with the procedures required by this part." The purpose of this addition is to relate the requirements for recording inventory changes to the licensee's individual circumstances and the provisions of the applicable Facility Attachment. Thus, in the case of reactors, the measurement system described in § 75.21(d) will be designed to provide for the determination of "burnup" at appropriate times, and only at such intervals will an investory change require reporting (A related suggestion, calling for modification of the definition of "batch," was not accepted because the provision restates verbation the terms of Article 90C of the Agreement. The "single set of specifications" which will be applied in differentiating batches will be a subject covered in the Facility Attachment.)

(5) *"Ore processing."* One commenter stated that the concept of recovery of uranium from copper ores was apparently not covered by the definition of "ore processing." To correct this oversight, and to provide for other comparable processing operations, the definition in § 75.4 has been broadened to include the recovery of uranium concentrates not only from phosphate production plants, but from other non-nuclear chemical production plants as well.

(6) *"Surveillance."* One commenter suggested that the definition of the term "surveillance" should be expanded to include the detection of unauthorized personnel movement. The suggestion was not accepted because it would require a departure from conventional IAEA terminology. Certain minor editorial changes were made, however, to bring the definition in these rules into exact agreement with Agency usage, as reflected in the IAEA Safeguards Technical Manual, IAEA–174.

(7) *Credentials.* One commenter stated that the identification procedures contained in § 75.7 were inadequate and suggested escort by an NRC representative known to the licensee at the time of the Agency's first visit. In response to the comment, § 75.7 (along with § 75.6) has been amended to place greater emphasis upon the Commission's intention to provide an escort during the initial visit, to define more precisely the nature of the written verification of credentials that a licensee must require, and to provide clear guidance to the licensee with respect to the procedures to be used for telephone verification of Agency representatives' credentials in unusual cases. The Commission expects that credentials will in practice always be confirmed by an NRC escort or through written verification to insure that the functions of Agency representatives are not impeded.

(8) *Installation information.* Commenters expressed concern that the installation information called for under proposed § 75.11 was unnecessarily extensive, a matter of particular concern where the disclosure of proprietary data might be involved. The Commission believes the language of proposed § 75.11(c) [that information be "sufficiently detailed to enable the Agency to make determinations in a knowledgeable manner"] and § 75.11(d) [identifying the determinations to be made by the Agency under Article 46] had sufficiently restricted the breadth of licensees' obligations. To reinforce the point, however, § 75.11(c) has been amended to indicate that the determinations in question are those provided for "under the Agreement." Any question regarding the need for specific items of information, including

data of particular sensitivity, could be resolved through established adjudicatory procedures, in enforcement actions instituted by the NRC staff, if agreement could not be arrived at informally. The materiality of the information, in terms of its utility to the Agency for the purposes set forth in the Agreement, could be a matter at issue. It should be emphasized, however, that NRC will make every effort to explain to licensees the general requirements of the Agency and to respond to specific questions that may arise during the preparation of installation information so that the Agreement can be implemented cooperatively, rather than through an adversary process.

Greater flexibility has been provided with respect to the length of time that will be allowed for submission of installation information. The original 45-day period has been retained, but it is now a minimum instead of a fixed time. The Commission recognizes that some licensees may need to apply concentrated effort to meet the time requirements. However, in view of the provisions contained in Article 40 of the Agreement and Article 4 of the Protocol (with respect to entry into force of Facility Attachments within 90 days after identification by the Agency) further relaxation would not be warranted.

(9) *Consultation.* Commenters stated that the IAEA's ability to apply safeguards effectively would be enhanced if licensees were genuine partners in a consultative process with the Commission. The Commission completely concurs with this view and had anticipated that this kind of relationship would be fostered within the framework of the proposed regulations. Nevertheless, because an exchange of views is especially vital during the development of Facility Attachments, § 75.11 has been revised to provide explicitly for consultation between NRC and the licensee at that stage. Certain other changes discussed below are also responsive to the request for better communications.

(10) *Sensitive information.* Commenters stated that the provisions of § 75.12 should be extended to include physical security information in addition to financial or commercial information. The original language was intended to be broad enough to cover physical security information (by virtue of § 2.790(d)). However, this paragraph has been clarified and simplified by extending the applicability of the section to any information which the licensee customarily holds in confidence, and by adding a specific provision for withholding physical security information from transmission. As a general rule, detailed security measures for physical protection of an installation will not be included in the required installation information; to the extent such measures are alluded to, however, consideration would be given to withholding at the request of the licensee or at the Commission's initiative.

Other comments with respect to § 75.12 related to the need to consider the interest of the owner of proprietary information (e.g., a manufacturer) as well as that of the licensee (e.g., and electric utility). While the original language would have accommodated this concern, the section has been revised to give specific recognition to protection of the owner's interest.

(11) *Verification of installation information.* Commenters suggested that licensees be provided advance notification of visits under § 75.13. The revised rule assures that there will be at least 3 days advance notice by telephone or in writing. If practicable, a longer lead time will be provided. If the timing of the visit would interfere substantially with its operations, the licensee may consult the cognizant Director, but the limited flexibility of Agency inspectors' schedules may make it necessary to adhere to the date set originally for the visit.

Commenters also stated that Agency representatives should be accompanied by NRC inspectors and licensee personnel. The revised rule reflects the Commission's intent to provide an escort when practicable. This may be especially useful during visits under § 75.13, inasmuch as such activities may be conducted as a part of the process of developing Facility Attachments. As noted previously, the Commission recognizes the desirability of effective consultation during this process. The licensee's right to accompany Agency inspectors is made explicit, subject to the condition (from Article 87 of the agreement) that there be no delay or impediment in the exercise of their functions.

Commenters suggested that the provision for visits under § 75.13 at all "reasonable times" should be restricted and clarified. One commenter proposed that the visits be limited to "normal weekday working hours." This suggestion has been accepted, except that weekend visits would be allowed at installations which normally schedule operations at those times.

(12) *Implementation of procedures.* A commenter stated that proposed § 75.21(e), which requires implementation of procedures upon notice by the Commission, would not give adequate time for implementation. The Commission appreciates the concern, but believes that the provisions of Article 40 of the agreement and Article 4 of the Protocol dictate some such language. If the 90-day Facility Attachment targets are to be met, immediate implementation upon notice by the Commission may be essential. Moreover, immediate implementation may be necessary if the Agency, pursuant to Article 40(c), elects to apply safeguards before completion of a Facility Attachment. The Commission nevertheless believes it would be in order to build into the regulation the flexibility to call for implementation on a schedule adapted to the circumstances of the individual case and has revised § 75.21(e) accordingly. A further change requires that the notice from the Commission be in writing.

(13) *Material balance reports.* Several commenters noted the apparent conflict between proposed § 75.35(b) [requiring reports no later than 20 days after a physical inventory has been taken] and § 70.53 [allowing up to 30 days after the start of the physical inventory]. In practice, there would probably be little conflict since the 30-day period runs from the start of the inventory and the 20-day period from its completion. In view of this fact, the Commission believes that it will still be able to achieve compliance with the Agreement if the language of the two regulations is harmonized. The revised rule accordingly changes § 75.35 to adopt the language contained in § 70.53.

(14) *Special reports.* Commenters stated that it would be useful to establish incident loss limits, so that only real or apparent losses of a significant nature would need to be reported immediately. Such loss limits, as well as containment requirements, will be set forth in the Facility Attachments. The Commission agrees that the regulations should limit the requirement for special reports to those events having safeguards significance. Revised § 75.36 therefore relates directly to matters set forth in written notice from the Commission reflecting the provisions of the applicable Facility Attachment.

The Commission declines, however, to add the word "unexpectedly" to the phrase, "containment has changed." Although the term appears in Article 66, as noted by a commenter, the Commission believes that NRC should ordinarily be provided with the information in any event so that it can make a determination whether a report

to the Agency is required. An exception would be made, however, if the licensee had previously identified the change in containment the "concise notes" accompanying an inventory change report.

A further change in § 75.36, though not proposed specifically in the comments received, would restrict the requirement for special reports to those installations which, having been designated under § 75.41, are subject to the application of agency safeguards. The reason for this change is that the Protocol to the Agreement contains no counterpart to Article 66 of the Agreement.

(15) *Inspection procedures.* Commenters made suggestions regarding advance notification, accompaniment of inspectors, and timing of inspections under § 75.42. In general, the comments conformed to those made in connection with § 75.13, and similar changes have been made by the Commission in response. However, some inspections may be carried out without prior notice, pursuant to article 82 of the agreement; the revised rule therefore contains the qualification that advance notification will "normally" be provided. If an Agency inspector arrives without such notification, the revised rule requires telephone notice to the Commission; this is in part a response to commenters' recommendations that IAEA inspectors be accompanied by NRC representatives, but it also reflects NRC's own needs to remain fully informed regarding the IAEA inspection program and its conformity with the Agreement. The provision in the proposed rule that inspections be permitted "at all reasonable times," which conforms to analogous provisions in Commission regulations (e.g., § 70.55), is unchanged so as to assure that the task of the inspectors is facilitated; however, any limitations contained in Facility Attachments will be communicated to licensees.

(16) *Authorized inspection activities.* Commenters addressed the provisions of § 75.42(b) in detail and pointed out certain differences from the language of articles 72 and 73 of the agreement, from which the paragraph was derived. In response to one of these comments, § 75.42(b)(5) has been changed to allow the Agency "to arrange" to use its own equipment. The previously-proposed § 75.42(b)(6) has been consolidated with § 75.42(e) and expanded to state more fully the types of requirements that will be included in the written notice from the Commission (which will implement the applicable Facility Attachment).

Commenters stated that the phrases "other actions contemplated by the Agreement" and "for example" were imprecise. One reason for this imprecision is that Article 72(e) of the agreement, which contemplates that the agency may "use other objective methods which have been demonstrated to be technically feasible", necessarily implies that particular requirements may not be readily characterized. The Commission believes that the limitation of revised § 75.42(c)(2), and the earlier § 75.42(b)(6), to actions that are both "contemplated by the agreement" and "evidenced by written notice from the Commission" is sufficient—i.e., that licensees will not be burdened with duties beyond those necessary to achieve the purposes for which the inspection is being carried out.

One commenter noted that the provisions of the original § 75.42(c) lack qualifications contained in Article 73 of the Agreement with respect to the making of prior arrangements with the United States. The matters involved (analysis of analytical standards and shipment of samples) are expected to be common to all inspection programs. The Commission accordingly believes that the suggested qualifying language is unnecessary. It has nevertheless made the requested change in connection with the analysis of samples to maintain the parallel structure of Article 73(c) and parts of revised § 75.42(c).

(17) *Advance notification of shipments.* Commenters expressed concern about the apparent degree of inflexibility in regard to the exactness with which a licensee must predict shipping schedules. The proposed rule did allow relief under § 75.44(b), indicating that the Commission "may" approve a shorter notice period. This has been changed to state that the Commission "will" approve "for good cause, a shorter notice period if it determines that observing the specified notification periods would result in delay in shipment or unpackaging." This amendment is consistent with the Subsidiary Arrangements (see Code 3.6, Note 1). The "good cause" requirement is included solely to emphasize the need for timely information from licensees; approval of a shorter time period will be granted whenever the licensee has acted with due diligence. A minor clarifying change in §75.45 indicates that the element weight of nuclear material is to be included in advance notifications; the information is needed for preparation of the reports described in Code 7.3 of the Subsidiary Arrangements. The revision of § 75.43(d), pertaining to domestic transfers, is editorial.

(18) *Agency seals.* Commenters stated that licensees should be permitted to break Agency seals when this is necessary for health, safety, or urgent operational reasons. Proposed § 75.46 would have allowed seals to be broken only "at the time nuclear material was being unpackaged." This has been changed to allow breaking of seals for health and safety reasons and at other times as authorized by the Commission. Foreseeable contingencies that would require the breaking of seals may be described in Facility Attachments, in which case Commission authorization could be provided in advance. In other situations, licensees would be required to obtain Commission authorization by communicating with the cognizant Director. The breaking of Agency seals will, of course, be subject to the special reports requirements of § 75.36.

(19) *Reimbursement.* Commenters stated that the limit on Agency responsibility for certain types of costs to direct and reasonable costs is not included in the Agreement and should not be created in the regulation. As written, § 75.47(a) imposed not a ceiling upon reimbursement, but rather a minimum; but inasmuch as the reference to "direct and reasonable" cost does not appear in the Agreement, it has been stricken from the revised rule.

Commenters also requested that the Commission provide guidance to licensees as to extraordinary expenses for which Agency reimbursement can be expected. While a definite response must await the development of Facility Attachments, the subjects most likely to be covered are (a) costs incurred in installation of IAEA equipment, (b) the value of material contained in samples provided to the Agency, (c) communications by Agency representatives from a licensed installation, and (d) certain packaging and shipping costs. Proposed § 75.47 has been amended to conform more closely to Article 14 of the Agreement (with respect to the request by the "Agency" instead of by "an Agency inspector") and to affirm that those items of extraordinary expense which the Agency has agreed to reimburse will be set forth in a written communication from the Commission to the licensee. These changes are also responsive to the comments suggesting a clearer differentiation between the two categories of reimbursable expense described in Article 14.

One commenter stated that the proposed rule would put the licensee in a difficult position if an inspector without authorization to approve reimbursement demands that a certain action be taken. The rule has been modified accordingly to indicate that the

Commission will provide written information to the licensee with respect to procedures for documentation of authorized requests.

(20) *License fees.* Neither the proposed rule nor the narrative statement accompanying it discussed the applicability of the Commission's license fee schedule to the implementation of the Agreement. Because the Agreement, and the implementing regulations, support foreign policy and nuclear non-proliferation objectives that are independent of the regulatory requirements for domestic licensed activity, the Commission finds that the "independent public interest" standard may be applied appropriately so as to exempt persons from the payment of fees in connection with activities of the Commission undertaken in carrying out the provisions of Part 75. See Electronic Industries Association v. Federal Communications Commission 554 F.2d 1109 (D.C. Cir. 1976). (For a fuller statement of the considerations guiding the Commission in its analysis of license fee issues, refer to the statement of considerations accompanying the last comprehensive revision of 10 CFR Part 170, 43 FR 7210, February 21, 1978.)

Discussion of Other Comments

In addition to the comments that resulted in changes in the proposed amendments a number of other issues were raised which resulted in no changes to the proposed amendments but which warrant discussion and explanation as follows:

(1) *Information supplied subsequently.*—Several commenters expressed a desire to examine the Subsidiary Arrangements and Transitional Subsidiary Arrangements (general parts) and revised reporting forms to assist in their review of the proposed rules. These were subsequently made available. Other comments dealt with matters which are treated in those documents, and with respect to which no further response appears to be necessary at this time, such as the principles and procedures for identifying installations for the application of Agency safeguards in a nondiscriminatory manner. Those comments pertaining specifically to revised forms will be taken into account before the forms are put into use.

(2) *Schedule for implementation.*—(a) Commenters suggested that there should be an opportunity for further public comment if and when the Senate has consented to the Agreement. The Commission may elect to provide this opportunity if it appears warranted in the light of the Senate's deliberations; on the other hand, it is the Commission's intention to facilitate the Agreement's entry into force at the earliest practicable date, and accordingly an additional comment period beyond the present one would only be provided for substantial cause.

(b) A commenter stated that assurances are required that implementation in the U.S. is not effected prematurely vis-a-vis other industrialized countries. Entry into force will require an act of ratification by the President; the President can weigh the concerns identified in this comment in determining when ratification will take place. The matter is not an apropriate subject for treatment in the Commission's regulations.

(3) *Nuclear material subject to safeguards.*—(a) One commenter suggested that the proposed regulations ought not be applied to natural uranium hexafluoride facilities since, in their view, the safeguards involved would not further antiproliferation objectives in any meaningful way.

The Commission disagrees with the comment because source material is specifically subject to regulation under domestic legislation and under the Treaty on the Non-Proliferation of Nuclear Weapons. By virtue of the comparability clause of the Agreement (Article 3(c)), however, the activities at the UF_6 conversion plant that would be subject to regulation under proposed Part 75 would be restricted to those activities which are within the scope of IAEA safeguards generally. Thus, aside from limited reporting requirements applicable to exports and imports, the source material at such a plant would be subject to safeguards only when it attains a composition and purity suitable for fuel fabrication or for being isotopically enriched (INFCIRC/153, paragraph 34). The Facility Attachment would be prepared in a manner that takes these considerations into account. The adequacy of periodic inventories under existing § 40.64(b), which is another matter raised by the commenter, will be addressed in the Facility Attachment; the licensee will be consulted during the preparation of that document. the commenter also stated that advance notice of shipment of natural UF_6 to United States Government enrichment facilities should not be required; the provision has been retained, however, because Article 12(a) requires advance notice with respect to such "withdrawals."

(b) A request to exempt research reactors cannot be accepted, inasmuch as the Agreement applies (as do international safeguards generally) to nuclear materials at reactors without regard to their character. Indeed, research reactors often utilize, as fuel, uranium of a relatively high enrichment; accordingly, they may have substantial significance from the standpoint of an international safeguards regime.

(c) The regulations also extend to irradiated material as described in § 73.6, despite the force of a commenter's observation that the material is inherently unattractive as a potential target for theft or diversion. The Facility Attachment will be prepared with due regard to these considerations.

(d) Commenters suggested that a procedure for initiating the termination of safeguards, in acordance with Articles 11, 13, and 35 of the US/IAEA Agreement, should be incorporated in the regulations. This subject will be covered in Facility Attachments. Specifically, guidance will be provided with respect to the circumstances when material is to be removed from inventory under codes LN (nuclear loss), LD (measured discard), TW (transfer to retained waste), and TU (termination, non-nuclear use). See Subsidiary Arrangements Code 10 3.2 TAG 411.

(e) The Commission has not provided in the regulations a provision for the exemption of up to one kilogram of special nuclear material, as allowed under Article 37. If the exemption is requested by the United States, and if it is applied in a manner that would relieve particular licensees of obligations otherwise imposed under Part 75, an exemption would be provided pursuant to § 75.3 or the procedures described in § 75.21 would be modified.

(f) A commenter suggested that the regulations address several questions pertaining to the exclusion of activities having "direct national security significance" from the scope of Part 75. The quoted term refers, of course, to the condition placed upon the offer of the United States at the time of its announcement by President Johnson. The determination whether a particular installation will be deemed to be of direct national security significance, and the elaboration of factors that may be used in arriving at such a determination, are matters that are in principle the responsibility of the Executive Branch. For that reason, § 75.2 of the regulations states that the eligible list will be provided to the Commission by the Secretary of State or his designee. If a licensee has a question regarding his inclusion on the eligible list, an inquiry to the cognizant NRC Director would be

appropriate; NRC, at least in some cases, could assist in securing corrective action (if appropriate) or could provide guidance or clarification. The licensee would nevertheless be free to present his concern directly to the Department of State because the substantive decision is that of the Department rather than the Commission.

(4) *Burdens upon licensees.*—Several commenters expressed concern about burdens upon licensees—such as interference with operations and additional expenses for recordkeeping and reporting.

(a) As a general principle, the Commission expects that the Agreement would be implemented in a manner designed to minimize the burdens upon licensees. This objective is reflected in numerous provisions of the Agreement—for example, in Article 4(b) ["avoid undue interference"], Article 6(a) ["ensure optimum cost-effectiveness"], and Article 8(a) ["require only the minimum amount of information"]—and both the regulations of the Commission and the Subsidiary Arrangements (including Facility Attachments) are intended to be fully consistent with these principles.

(b) A particular concern was the review of installation information should not be permitted to result in delay in the licensing process. The Commission believes that the prelicensing review provisions in §§ 40.31, 50.78, 70.21, and 150.17a will be sufficient to allow the Commission, in cooperation with licensees, to assure timely licensing in accordance with the principles stated in Article 4. The licensee (or applicant) will have an opportunity to be heard by virtue of the amended language providing for consultation in connection with the development of Facility Attachments. It should be noted that the obligations imposed by the referenced sections are defined carefully and restricted to refer solely to §§ 75.6 and 75.11–75.14; affected persons are not required to take any action except to prepare installation and supplemental information and permit verification.

(c) The suggestion that NRC should prepare installation information from data on hand is not only administratively impractical, but undesirable on basic policy grounds as well. The preparation by the licensee enables it to propose procedures that would enable it to be in compliance with minimum interference with its own operations. Consultation with NRC, as well as careful consideration of the Subsidiary Arrangements, model Facility Attachments (which the Commision has made available), and other instructions and guidelines should provide an adequate foundation for development of the information that is required. Furthermore, preparation by licensees provides a mechanism for properly taking into account concerns with respect to the protection of information customarily held in confidence.

(d) Several commenters referred to burdens that might result from the establishment of multiple material balance areas, excessive or impractical requirements with respect to the timing or frequency of inventories, or other elements of the material accounting and control procedures. These matters will be governed by provisions of the Agreement directed to avoidance of undue burdens (e.g., Articles 4, 6, 7, 8). However, to the extent that the Agency's system differs in approach or detail from that contained in the U.S. domestic program, additional (though not conflicting) requirements will necessarily be applied to individual licensees, as provided in § 75.21(f). The particulars will be set forth in Facility Attachments. Thus, while the rule does not specifically differentiate among classes of installations (or between source and special nuclear material), its application will reflect peculiar aspects of design and operation.

(e) A suggestion that the stated time limits be changed, so as to refer to "regular working days" rather than calendar days, has been rejected. The times in question cannot be extended without causing conflict with the Agreement and Subsidiary Arrangements.

(5) *Proprietary information.*—Several commenters indicated a concern regarding the extent to which proprietary information might be disclosed to unauthorized persons. The Commission recognizes the importance of this consideration, notwithstanding the undertaking of the Agency, in Article 5, to "take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge." (Under the procedures of the Agency, such information is subject to special handling procedures which limit access on a strict "need to know" basis. At the time of their appointment, Agency personnel must sign a document representing their commitment to abide by regulations which, among other things, obligate them not to disclose any confidential or proprietary information during their tenure or thereafter.)

The several issues raised by commenters are discussed below.

(a) Interest of suppliers. As already noted, the final rule more explicitly indicates that the proprietary interest of suppliers may be considered. Beyond this, it was proposed that the Commission should be required to deal directly with the proprietor of the requested information in addition to the licensee. In practice, the Commission anticipates that informal communications between its staff and proprietors would be undertaken whenever this would facilitate the making of a determination under revised § 75.12. However, the Commission looks to the licensee in the first instance as the master of the information which it will be required to provide; and only if the licensee raises the issue of third-party rights would there be any basis for further inquiry by the Commission. The supplier may of course include a proprietary information clause in contracts with its customers. The licensee could thereby be required to inform the supplier of disclosures required by operation of law, and to cooperate in the protection of the supplier's legitimate interests. Although the Commission believes that effective implementation of the Agreement demands that installation information be furnished promptly, it notes that if a question regarding the need for particular matters were to arise in an enforcement proceeding, the supplier might petition to intervene under § 2.714.

(b) Content of installation information. Some commenters proposed that commercially sensitive material be excluded from installation information pending a determination during onsite verification that the material is required. The Commission has not incorporated the suggestion into the regulations because the Agreement contemplates prompt and complete submissions before verification activities are scheduled. Licensees who have questions with respect to the need for reporting of certain items of information should consult with the NRC staff. Any remaining difference of view could be resolved in an adjudicatory proceeding in which the primary issue would be whether the information is sufficiently detailed to enable the Agency to make [specified] knowledgeable determinations under the Agreement. While the Commission believes that this standard provides sufficiently clear guidance to licensees, it recognizes that there may be some borderline cases which, particularly in view of the economic interests at stake, may be appropriate for formal decisionmaking.

A related comment addressed the need for a description of equipment items. As noted in the previous paragraph, information would only be required where necessary for the Agency to make its determinations in a knowledgeable manner.

(c) Information of "particular sensitivity." One commenter stated that proposed § 75.12(b)(2) places an unduly restrictive interpretation upon Article 8(c) of the Agreement, which accords to the United States the right to have information of particular sensitivity examined only on United States premises. The provision in question merely states the balancing test which the Commission believes is fairly implied by the Agreement itself, considering not only Article 8(c), but Article 3(a) [cooperation to facilitate implementation], and Article 5(a) [precautions to protect confidential information] as well.

(d) Process steps. Commenters stated that provisions need to be included (1) for a licensee to request a special material balance around a process step involving commercially sensitive information and (2) for the use of the strategic points concept provided for in INFCIRC/153 to preclude access to commercially sensitive processes. § 75.11(a)(4) would specifically allow the licensee to describe proposed procedures, with special reference to material balance areas. The strategic points concept is alluded to in § 75.11(d)(6). The Commission accordingly finds no need to modify the regulations. Facility Attachments will be prepared in a manner that takes these considerations into account along with the other policies being advanced by the Agreement.

(e) Criteria for nontransmittal. A commenter suggested that it would be appropriate for § 75.12 to employ a format analogous to that of § 2.790 by including an enumeration of factors which the Commission will consider in review of a request not to physically transmit information. The Commission finds the criteria set forth in § 75.12(b)(2) to be comprehensive, particularly in the light of the change that has been made regarding the eligibility for consideration under this provision of any information which the licensee customarily holds in confidence. §§ 75.12 and 2.790 do set forth different standards, but this is appropriate in view of their respective objectives and statutory foundations. To assure that confidential information receives protection, where warranted under the Freedom of Information Act, the licensee should of course comply with § 2.790 as well as § 75.12.

(6) *Reporting requirements.*— Commenters stated that clarification or relaxation of certain reporting requirements would be desirable. Some changes were made, particularly with respect to the provisions of § 75.35 (material balance reports) and 75.36 (special reports), as previously noted.

(a) The requirement for distribution of material balance reports "as soon as possible" has been retained to assure complance with Article 61 of the Agreement. The Commission does not expect that the language will impose any substantial new burden upon licensees. (§ 70.54, for example, currently requires transferors to submit inventory change reports "promptly".)

(b) Commenters took exception to the periods provided for the reporting of installation information. The 45-day limit for the original submission (§ 75.11(a)) has been modified as discussed above. The 70-day requirement with respect to modifications (§ 75.11(b)) reflects the underlying requirement of Code 3.1.3 of the Subsidiary Arrangements. Since that provision "normally" requires 60 days' notice to the Agency, the Commission could entertain a request for relief pursuant to the exemption provision contained in § 75.3.

(c) As to the types of modifications and changes that must be reported under § 75.11(b)(1), the Commission has chosen to retain the original language ("a modification or change which will necessitate a change in a license condition or technical specification or which will decrease the effectiveness of the material accounting and control procedures"). This conforms to the parallel provisions of existing regulations, including § 70.32(c), which have been applied satisfactorily. It should be noted, in addition, that the Facility Attachments will further specify the types of modifications for which information is to be supplied in advance. (See Code 3.1.3 of the Subsidiary Arrangements.)

(d) It was correctly noted that the checks and balance provision in § 75.14(a)(1) is not explicitly stated in Article 44; the provision is contained however, in the Subsidiary Arrangements (Code 2.3.1).

(e) A "book inventory" is a satisfactory basis for the initial report described in § 75.32. Accordingly, there is no need to provide the more extended period that a commenter indicated would be needed if a "physical inventory" were to be required.

(f) One commenter stated that clarification is necessary with respect to the advance notification requirement for exports "directly or indirectly" to non-nuclear weapon states, § 75.43(b). The language in question reflects terminology contained in Code 3.6 of the Subsidiary Arrangements. The objective is to assure that the identity of the ultimate consignee (or the originator of the shipment) is considered in determining the applicability of § 75.43. Thus, the circumstance that the material might be in transit on or over the territory or territorial waters of a country or that it is being transported under a country's flag or in its aircraft, would be disregarded. This is consistent with the approach contained in INFCIRC/153, paragraph 91.

(g) In response to a commenter's concern about duplicate reporting requirements, the Commission notes that it is making every effort (by changing Forms 741 and 742) to develop a standard reporting format that will serve both IAEA and domestic needs. Thus, the routine reports entering the accounting system will serve both purposes.

(7) *Inspection provisions.*— Commenters identified a number of concerns, other than those addressed in the discussion of changes in the rule, with respect to the conduct of inspections.

(a) The Commission finds that it would be inappropriate to incorporate in its rules the distinctions between ad hoc, routine, and special inspections that are contained in the Agreement. The responsibilities of the licensee (and the rights of the Agency under Articles 72 and 73) are the same in each instance. The Commission will monitor the inspection activities of the Agency to assure that the number, intensity, duration, timing and mode thereof conform to the Agreement. Licensees may bring to the attention of NRC any concerns that they may have, particularly with respect to any concentration of effort that may be perceived to be "undue" within the meaning of Article 80. (Similarly, they might identify Agency activities which appear not to be "designed to be consistent with prudent management practices required for the economic and safe conduct of nuclear activities," as undertaken in Article 4(c).) The Commission will advise the Department of State regarding any activity of the Agency which the Commission finds to be materially at variance with the provisions of the Agreement.

(b) A commenter recommended that the names of individuals proposed as

Agency inspectors be published in the Federal Register, so that licensees might have an opportunity to indicate factors that might bear upon their acceptability. The Commission believes this suggestion should more appropriately be considered by the Department of State, which is responsible for communicating to the Agency the United States' approval of inspectors. No change in the Commission's own regulations is required, however.

(c) The proposed rules state that the inspection provisions shall not be deemed to require or authorize the licensee to carry out any operation that would otherwise constitute a violation of the terms of any applicable license, regulation or order of the Commission. The primary purpose of this provision is to ensure protection of health and safety. One commenter suggested that the exception be expanded to excuse noncompliance with respect to any operation contrary to the Agreement itself or any other law. The Commission believes this formulation is excessively broad and vague and could result in inspectors being delayed or impeded in the exercise of their functions. The change in § 75.42(a), restricting the scope of inspections "as provided in this section" should eliminate much of the commenter's concern.

(d) Another comment is that the licensee should have a clearly stated right to refuse installation of Agency equipment for reasons of safety, protection of a licensee's proprietary or competitive position, assurance of product quality, or other legal rights of the licensee or his employees. These concerns will be taken into account as Facility Attachments are developed in consultation with the licensee. It is only equipment which has been agreed to by the United States in the Facility Attachment that must be installed under § 75.42.

(e) The Commission is unable to answer definitively a question regarding the length of time that a licensee might remain subject to a designation under § 75.41. The period should be long enough to enable the Agency to "make optimum and most economical use of inspection resources available to it," as stated in Article 76. On the other hand, the period should not be so lengthy as to result in discriminatory treatment as between United States commercial firms similarly situated. Article 2(c). Principles affecting the rotation of the inspection effort, though not expressed in fixed periods of time, are contained in Code 4.3 of the Subsidiary Arrangements. The Commission is unaware of any firm Agency policy in this regard. Finally, it may be observed that Article 80 provides for consultation between the United States and the Agency if the United States considers that the inspection effort is being deployed with undue concentration on particular facilities; while this provision is one that is used in Agency agreements with non-nuclear-weapon States (see INFCIRC/153, paragraph 82), the Commission believes it might properly be invoked (along with Article 19) if a question were to arise regarding the length of time that an installation has remained subject to inspection.

(f) A commenter indicated the need for proper lines of communication for resolution of licensee/IAEA inspector differences of opinion. The difficulty in responding to this comment is that a broad range of "differences of opinion" is conceivable, and procedures for resolution may accordingly vary from one case to the next. No doubt the presence of NRC inspectors, as contemplated by the revised rules, will tend to clear up some questions and misunderstandings. At other times, the licensee may wish to consult with the cognizant NRC Office Director. Other differences might require formal procedures before they can finally be resolved. Each of these avenues is available under the proposed rules, which accordingly have not been changed. The Commission also recognizes that the administrative arrangements that it makes within its own organization can have a major impact upon its ability to work effectively with licensees in the resolution of disputes, but these matters, while important, would not affect the content of the rules.

The same commenter suggested that the role of the State Department in the resolution of licensee/inspector disputes should be spelled out. The State Department would be involved in any matter requiring formal communication to the Agency, and its foreign policy views would always be given appropriate weight by the Commission; but the licensee's channel of communication as to disputes arising out of inspections would be the NRC and not the Department.

(g) The Commission recognizes the merit of one commenter's suggestion that Agency and NRC inspections be conducted simultaneously. However, since the purposes of the inspections are only partially overlapping, the practices of the inspecting authorities may be quite different, and coordination of inspection schedules may not be administratively feasible, the Commission has decided that a regulatory provision implementing the suggestion would be undesirable. It may be noted that § 75.34(b) calls for licensees, when appropriate, to include a description of their anticipated operational program in the concise notes accompanying an inventory change report. One purpose of this provision is to assist the Agency in the scheduling of inspection activities in a manner that will reduce inconvenience.

(h) A commenter proposed certain changes to the language which would require a licensee to make shipments to destinations specified by an Agency inspector. It is not clear whether the commenter is concerned with questions of conflict with the Commission's export licensing regulations or with the administrative difficulty of complying with those regulations (10 CFR Part 110). There is no conflict with regard to the former, because under § 75.42 a licensee is clearly advised that a shipment must not be made except in accordance with export licensing regulations. With respect to issues of practicality, there does appear to be merit in providing a general export license or other mechanism to facilitate the export of samples, and the Commission is initiating a review of appropriate alternatives.

(8) *Reimbursement.*—(a) Several commenters suggested that the Commission reimburse licensees for their costs in implementing the regulations, or alternatively that license fees be reduced for the same purpose. The Commission regards it as the obligation of its licensees to defray their own expenses of complying with regulations which have been issued in conformity with applicable law. Under the Atomic Energy Act, the Commission lacks authority to assume these costs. Accordingly, unless substantive laws were to be changed and funds appropriated, the suggestions cannot be accepted. (As noted in the discussion of changes from the proposed rule, procedures for documentation of reimbursable expenses have been more clearly defined.)

(b) Other comments recommended that the licensees obtain payments, where authorized under the Agreement, directly from the Commission (which would then be reimbursed by the Agency). This suggestion has been rejected in part for reasons of ease of administration, namely to avoid an unnecessary step in processing of invoices. In addition, it is doubtful whether the Commission would have the authority under existing law to make payments of this sort to licensees.

(9) *Recourse procedures.*—Commenters indicated a need to define recourse procedures to be followed in the event of improper or excessive IAEA implementation and to identify criteria for granting of exemptions. Aside from the provision for consultation that has been added to § 75.11, the Commission has not found it necessary to modify the proposed rules in response to these comments.

Recourse procedures include informal consultation with the cognizant Director (§§ 75.6 and 75.11), requests for exemption (§ 75.3), and hearings in enforcement actions in accordance with §§ 2.201 and 2.202. If the matter is one of general applicability, a petition for rulemaking may be filed.

The procedure for seeking exemptions is the same as for other exemptions authorized by Commission regulations. A request would be evaluated on the basis of administrative review, with a decision on the merits rendered by the Commission or officers to whom it has delegated authority in this regard. The criteria for granting exemptions are stated in broad terms so as to accommodate unforeseen situations. This conforms to the practice of the Commission as for example in § 70.14(a). To the extent that greater specificity is warranted, it has been provided in the language of § 75.3 requiring that the exemption be determined to be "consistent with the Agreement."

The Agreement contains additional mechanisms for the United States to raise with the Agency issues with respect to improper or excessive acts by its representatives. NRC would examine questions of this sort identified by licensees and would communicate the licensee's views to the Department of State, along with recommendations for action, however and whenever this might be appropriate.

One commenter stated that the proposed rule fails to reflect the liability and claim provisions of Article 16 and suggested an amendment to provide that the United States will, if so requested, assist in taking action to recover claims by licensees against the Agency and to defend claims against the licensee by the Agency. The Commission has indicated that it will provide assistance, to the extent set forth in § 75.47(d), with respect to the reimbursement of expenses. The question of whether Article 16 should be invoked is a matter involving considerations of foreign policy and international law. While a licensee may ask the Commission to assist in resolution of disputes with the Agency, the appropriateness of governmental action under Article 16 would depend upon the circumstances of the particular case.

Notice

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following new 10 CFR Part 75 and amendments to 10 CFR Parts 40, 50, 70, 150 and 170 are contemplated. All interested persons who desire to submit written comments or suggestions in connection with the proposed amendments should submit them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch, by August 31, 1979.

Copies of comments regarding the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

PART 40—LICENSING OF SOURCE MATERIAL

1. The citation of authority is amended by adding a new paragraph as follows:

(* * * Paragraph 40.31(g) also issued under Sec. 122, 68 Stat. 939, 42 U.S.C. 2152)

2. A new paragraph (p) is added to § 40.4 to read as follows:

§ 40.4 Definitions.

* * * * *

(p) "Effective kilogram" means (1) for the source material uranium in which the uranium isotope uranium-235 is greater than 0.005 (0.5 weight percent) of the total uranium present: 10,000 kilograms, and (2) for any other source material: 20,000 kilograms.

3. A new paragraph (g) is added to § 40.31 to read as follows:

§ 40.31 Application for specific licenses.

(g) An applicant for a license to possess and use source material in a uranium hexafluoride production plant or a fuel fabrication plant and any other applicant for a license to possess and use more than one effective kilogram of source material (except for ore processing, as defined in § 75.4(m) of this chapter) should file with the Commission the installation information described in § 75.11 of this chapter; and the applicant shall permit verification thereof by the International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in §§ 75.6, 75.11–75.14 of this chapter. The Commission will grant an exemption from the requirements of this section if it determines that the installation will not be included on the United States eligible list. The installation information should be filed at least 9 months prior to the date when the applicant desires to receive the source material (or earlier upon request by the Commission). Applicants who desire to receive the source material within 9 months after the effective date of this paragraph should submit the installation information as soon as possible.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

4. The citation of authority is amended by inserting the following sentence between the first and second sentences:

Authority: * * * Section 50.78 also issued under sec. 122, 68 Stat. 939, 42 U.S.C. 2152; and by inserting in the last sentence, the phrase "and § 50.78" between the words "§§ 50.70–50.71" and "issued under sec. 161o.". * * *

5. A new § 50.78, "Installation information and verification," with accompanying caption, is added to read as follows:

US/IAEA Safeguards Agreement

§ 50.78 Installation information and verification.

Each holder of a construction permit shall, if requested by the Commission, submit installation information, permit verification thereof by the International Atomic Energy Agency, and take such other action as may be necessary to implement the Safeguards Agreement, in the manner set forth in §§ 75.6 and 75.11–75.14 of this chapter.

PART 70—SPECIAL NUCLEAR MATERIAL

6. A sentence is added to the citation of authority to read as follows:

Authority: * * * Paragraph 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

7. Section 70.21 is amended by adding a new paragraph (g) to read as follows:

§ 70.21 Filing.

* * * * *

(g) An applicant for a license to possess and use more than one effective kilogram of special nuclear material should file with the Commission the installaton information described in § 75.11 of this chapter; and the applicant shall permit verification by the

International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in §§ 75.6 and 75.11–75.14 of this chapter. The Commission will grant an exemption from the requirements of this paragraph, upon application, if it determines that the installaton will not be included on the United States eligible list. The installation information should be filed at least 9 months prior to the date when the applicant desires to receive the special nuclear material (or earlier upon request by the Commission). Applicants who desire to receive the special nuclear material within 9 months after the effective date of this paragraph should submit the installation information as soon as possible.

8. A new Part 75 is added to read as follows:

General Provisions

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

Sec.

75.1 Purpose.
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75.41 Designation.
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75.44 Timing of advance notification.
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Enforcement

75.51 Violations.

Authority: Secs. 53, 63, 122, 161b., and o., Pub. L. 83–703, 68 Stat. 930, 932, 939, 948 as amended (42 U.S.C. 2073, 2093, 2152, 2201); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841).

For purposes of Sec. 223, Pub. L. 83–703, 68 Stat. 958, as amended (42 U.S.C. 2273), the provisions of this part issued under Sec. 161o., Pub. L. 83–703, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

General Provisions

§ 75.1 Purpose.

This part establishes a system of nuclear material accounting and nuclear material control to implement, with respect to NRC and Agreement State licensees, the Agreement between the United States and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States.

§ 75.2 Scope.

(a) Except as provided in § 75.3, the requirements in this part apply to all persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation, as defined in § 75.2(b), on the United States eligible list. They also apply, to the extent specified in §§ 50.78, 40.31(g), 70.21(g), and 150.17a of this chapter, to holders of construction permits and to persons who intend to receive source material or special nuclear material.

(b) The United States eligible list is a list of installations eligible for IAEA safeguards under the US/IAEA Safeguards Agreement which the Secretary of State or his designee files with the Commission, a copy of which shall at all times be available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. In accordance with the provisions of the Agreement, there will be excluded from the United States eligible list:

(1) Activities having direct national security significance.

(2) Mining and ore processing activities.

§ 75.3 Exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this part that it determines are authorized by law and consistent with the Agreement, are not inimical to the common defense and security, and are otherwise in the public interest.

(b) Without limiting the generality of paragraph (a), an exemption under this section may be granted with respect to nuclear material of the following types:

(1) Special nuclear material in gram quantities or less as a sensing component in instruments;

(2) Nuclear material used in non-nuclear activities, if such nuclear material is recoverable, and

(3) Plutonium with an isotopic concentration of plutonium-238 exceeding 80%.

§ 75.4 Definitions.

As used in this part:

(a) Unless otherwise defined in this section, the terms defined in § 40.4, § 50.2, and § 70.4 of this chapter have the same meaning when used in this part.

(b) "Agency" means the International Atomic Energy Agency (IAEA) or its duly authorized representatives.

(c) "Agreement," except as used in the term "Agreement State," means the Agreement between the United States and the Agency for the Application of Safeguards in the United States, including the Protocol thereto.

(d) "Agreement State" as designated in Part 150 of this chapter means any State with which the Commission has entered into an effective agreement under subsection 247b of the Act.

(e) "Batch" means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.

(f) "Containment" [1] means:

(1) The application of any devices designed to limit the mobility of nuclear material, the access of personnel, and the unauthorized operation of equipment, such as transfer valves and sampler lines; and

(2) Structural elements, including the design of buildings and layout of equipment, which minimize and control access to nuclear material.

(g) "Effective kilogram" means a unit used in safeguarding nuclear material. The quantity is:

(1) For special nuclear material: the amount specified in § 70.4(t) of this chapter.

(2) For source material: the amount specified in § 40.4(p) of this chapter.

(h) "IAEA material balance area" means an area established for IAEA accounting purposes, such that:

[1] The term refers to nuclear material safeguards rather than radiological protection.

(1) The quantity of nuclear material in each transfer into or out of each material balance area can be determined; and

(2) The physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures.

(i) "Installation" means:

(1) a production facility or utilization facility as defined in § 50.2 of this chapter;

(2) a uranium hexafluoride production plant;

(3) a fuel fabrication plant; or

(4) any location where the possession of more than one effective kilogram of nuclear material is licensed pursuant to Parts 40 or 70 of this chapter, or pursuant to an Agreement State license.

(j) "Inventory change" means an increase or decrease established in accordance with the procedures required by this part, in terms of batches, of nuclear material in an IAEA material balance area.

(k) "Key measurement point" means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points thus include, but are not limited to, the inputs and outputs (including measured discards) and storages in material balance areas.

(l) "Nuclear material" means any source material or any special nuclear material.

(m) "Ore processing" means uranium milling and other procedures for producing U_3O_8 from uranium ore or from uranium concentrates produced as a byproduct from phosphate or other non-nuclear chemical production plants.

(n) "Surveillance" means instrumental or human observation to indicate or detect the movement of nuclear material.

(o) "United States eligible list" means the list of installations described in § 75.2.

§ 75.5 Interpretations.

Except as authorized specifically by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 75.6 Delivery of information, reports, and other communications.

(a) All information and reports required to be submitted pursuant to the provisions of this part and other communications concerning the regulations in this part shall be delivered as follows:

Item	Section	Manner of delivery
Agency Representatives	75.7	To the Regional Office of the NRC Office of Inspection and Enforcement.
Installation Information	75.11	To the cognizant Director (specified in § 75.6(b)).
Sensitive Informaton	75.12	Do.
Verification of Installation Information	75.13	Do.
Supplemental Information	75.14	Do.
Initial Report	75.32	In accordance with printed instructions for preparation of Form DOE/NRC-742.
Inventory Change Reports	75.34	In accordance with printed instructions for preparation of Form DOE/NRC-741.
Material Balance Reports (and statement of the physical inventory).	75.35	In accordance with printed instructions for preparation of Form DOE/NRC-742.
Special Reports	75.36	To the Regional Office of the NRC Office of Inspection and Enforcement.
Inspection	75.42	To the cognizant Director.
Transfers (advance notification)	75.43	To the Regional Office of the NRC Office of Inspection and Enforcement.
Delays	75.44	Do.
Other Communications	.....	To the cognizant Director.

(b) If an installation is a nuclear power plant or a non-power reactor for which a construction permit or operating license has been issued, whether or not a license to receive and possess nuclear material at the installation has been issued, the cognizant Director is the Director, Office of Nuclear Reactor Regulation. For all other installations, the cognizant Director is the Director, Office of Nuclear Material Safety and Safeguards.

(c) Communications to the Directors, Office of Nuclear Material Safety and Safeguards or Office of Nuclear Reactor Regulation, may be delivered by mail, addressed to such Director at the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or may be addressed to such Director and delivered in person at the Commission's offices 1717 H Street, N.W., Washington, D.C., or 7920 Norfolk Avenue, Bethesda, Maryland.

(d) Communications to the Regional Office of the NRC Office of Inspection and Enforcement shall be addressed to the office listed in Appendix A of Part 73 of this chapter for the region in which the installation is located.

§ 75.7 Agency representatives.

Each licensee subject to the provisions of this part shall recognize as a duly authorized representative of the Agency any person bearing Agency credentials who at the time of a visit or inspection, or of any visit or inspection within the preceding two years, is or was accompanied by a Commission employee, provided, that if the Agency representative is not accompanied by a Commission employee, his credentials shall have been confirmed by the Commission in writing for the particular visit or inspection or for a specified term. The licensee shall immediately communicate with the Commission, by telephone, with respect to the credentials of any other person who claims to be an Agency representative and shall accept telephone confirmation of such credentials by the Commission.

Installation Information

§ 75.11 Installation information.

(a) Each licensee subject to the provisions of this part shall submit to the Commission, in response to and within the period (which shall be at least 45 days) specified in a written request from the Commission, the following information with respect to any installation in which the licensee carries out licensed activities:

(1) The identification of the installation, stating its general character, purpose, nominal capacity (thermal power level, in the case of power reactors), and geographic location, and the name and address to be used for routine purposes;

(2) A description of the general arrangement of the installation with reference, to the extent feasible, to the form, location and flow of nuclear material and to the general layout of important items of equipment which use, produce or process nuclear material;

(3) A description of features of the installation relating to material accounting, containment and surveillance; and

(4) A description of the existing and proposed procedures at the installation for nuclear material accounting and control, with special reference to material balance areas established by the licensee, measurement of flow and

procedures for physical inventory taking.

(b) Each licensee shall thereafter submit to the Commission information with respect to any modification or change at the installation affecting the information described in paragraph (a) of this secton. Such information shall be submitted:

(1) With respect to a modification or change which will necessitate a change in a license condition or technical specification or which will decrease the effectiveness of the material accounting and control procedures, at least 70 days before the modification or change is scheduled to be completed;

(2) With respect to any other modification or change, at the time the first inventory change report is submitted after the modification or change is completed.

(c) The information specified in paragraphs (a) and (b) of this section shall be prepared on forms supplied by the Commission and shall be sufficiently detailed to enable the Agency to make knowledgeable determinations under the Agreement.

(d) The Agency determinations referred to in this section are:

(1) Identification of the features of installations and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;

(2) Determination of IAEA material balance areas to be used for Agency accounting purposes and selection of those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material;

(3) Establishment of the nominal timing and procedures for taking of physical inventory of nuclear material for Agency accounting purposes;

(4) Establishment of the records and reports requirements and records evaluation procedures;

(5) Establishment of requirements and procedures for verification of the quantity and location of nuclear material; and

(6) Selection of appropriate combinations of containment and surveillance methods and techniques at the strategic points at which they are to be applied.

(e) The Commission will consult with a licensee, at the licensee's request, with respect to any matter that is the subject of a determination to be made by the Agency.

§ 75.12 Communication of information to the Agency.

(a) Except as otherwise provided in this section, the Commission will furnish to the Agency all information submitted in accordance with § 75.11 and § 75.14.

(b)(1) A licensee may request that information of particular sensitivity, which it customarily holds in confidence, not be transmitted physically to the Agency. A licensee who makes such a request should, at the time the information is submitted, identify the pertinent document or part thereof and make a full statement of the reasons supporting the request.

(2) In considering such a request, it is the policy of the Commission to achieve an effective balance between legitimate concerns of licensees, including protection of the competitive position of the owner of the information and the undertaking of the United States to cooperate to facilitate the implementation of the safeguards provided for in the Agreement. The Commission will take into account the obligation of the Agency to take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Agreement.

(3) If a request is denied, the Commission will notify the applicant with a statement of reasons. The notice of denial will specify a time, not less than ten (10) days after the date of the notice, when the information will be transmitted physically to the Agency.

(4) If a request is granted, the Commission will determine a location where the information will remain readily available for examination by the Agency, and will so inform the licensee.

(c) Information which identifies a licensee's detailed security measures for the physical protection of an installation in which licensed special nuclear material is possessed or used may be the subject of a request by a licensee under paragraph (b) of this section. The Commission may at its own initiative, or at the request of a licensee, determine that the information described in this paragraph shall not be transmitted to the Agency.

(d) A request made under § 2.790(b) of this chapter, will not be treated as a request under this section unless the application makes specific reference to this section, nor shall a determination to withhold information from public disclosure necessarily require a determination that such information not be transmitted physically to the Agency.

§ 75.13 Verification.

(a) Each licensee subject to the provisions of this part shall afford to the Agency, during normal working hours, pursuant to prior notice from the Commission, opportunity to visit the installation to verify the installation information. The licensee may accompany Agency representatives who visit the installation for such purpose, provided that the Agency representatives shall not be delayed or otherwise impeded in the exercise of their functions.

(b) The notice from the Commission referred to in this section may be given by telephone or in writing and shall be provided to the licensee at least 3 days prior to the visit. The licensee should consult with the Commission immediately if the visit would unduly interfere with its activities.

(c) The Commission will to the extent feasible, upon request by a licensee, assign an employee to accompany an Agency representative engaged in a visit described in this section.

§ 75.14 Supplemental information.

(a) At the time information is submitted in accordance with § 75.11, and promptly whenever changes are made, each licensee subject to the provisions of this part shall submit to the Commission:

(1) Information on organizational responsibility for material accounting and control, including information with respect to separation of functions to provide internal checks and balances.

(2) Health and safety rules to be observed by the Agency inspectors at the installation.

(b) Information submitted pursuant to this section shall indicate that the information is being supplied for purposes of implementation of the US/IAEA Safeguards Agreement.

Material Accounting and Control

§ 75.21 General requirements.

(a) Each licensee subject to the provisions of this part shall establish, maintain and follow written material accounting and control procedures as provided in this section.

(b) The procedures shall be based on a structure of IAEA material balance areas and, with respect to each batch of nuclear material, shall provide for measurements of flow and inventory taking at key measurement points.

(c) The procedures and the IAEA material balance areas shall be those communicated in writing by the Commission to the licensee, based upon Agency determinations. In the absence

of such communication, and to the extent that any such communication may be incomplete, the licensee shall employ the procedures described by him in the information submitted under § 75.11, except that he may treat the entire installation as a single IAEA material balance area unless he has received specific directions to the contrary.

(d) The material accounting and control procedures required by this section shall include:

(1) A measurement system for the determination of the quantities of nuclear material received, produced, shipped, lost or otherwise removed from inventory, and the quantities on inventory;

(2) The evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty;

(3) Procedures for identifying, reviewing and evaluating differences in shipper/receiver measurements;

(4) Procedures, including frequency, for taking a physical inventory;

(5) Procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses;

(6) Maintenance of accounting and operating records.

(e) Upon written direction from the Commission, the licensee shall implement the procedures required by this section. Such implementation shall occur within 10 days after such direction or within such other period as may be specified by the Commission.

(f) The requirements of this section are in addition to any other requirements, including those set forth in § 70.51(e), § 70.57, and § 70.58 of this chapter, that may apply to the licensee.

§ 75.22 Accounting records.

(a) The accounting records required by § 75.21 shall include, for each IAEA material balance area:

(1) All inventory changes, so as to permit a determination of the book inventory at any time;

(2) All measurement results that are used for determination of the physical inventory; and

(3) All adjustments and corrections that have been made in respect to inventory changes, book inventories and physical inventories.

(b) The records shall show, for each batch of nuclear material: material identification, batch data and source data. The "batch data" means a separate listing of the total weight of each element of nuclear material, including isotopic composition for special nuclear material, with plutonium and enriched uranium measured in grams and natural or depleted uranium and thorium measured in kilograms. The "source data" are the data recorded to generate the batch data.

(c) For each inventory change, the records shall show the date of the inventory change and, when appropriate, the originating material balance area, the receiving material balance area, or the recipient.

§ 75.23 Operating records.

The operating records required by § 75.21 shall include, for each IAEA material balance area:

(a) Those operating data which are used to establish changes in the quantities and composition of nuclear material;

(b) The data obtained from the calibration of tanks and instruments and from sampling and analyses, the procedures employed to control the quality of measurements, and the derived estimates of random and systematic error;

(c) A description of the sequence of the actions taken in preparing for, and in taking, a physical inventory, to ensure that it is correct and complete; and

(d) A description of the actions taken to ascertain the magnitude and cause of any accidental or unmeasured loss that might occur.

§ 75.24 Retention of records.

The records referred to in §§ 75.22 and 75.23 shall be retained by the licensee for at least five years.

Reports

§ 75.31 General requirements.

Each licensee subject to the provisions of this part shall make an initial report, and thereafter shall make accounting and special reports. Such reports shall be based on the records kept in accordance with § 75.21. At the request of the Commission, the licensee shall amplify or clarify any report with respect to any matter relevant to implementation of the agreement. Such amplification or clarification shall be in writing and shall be submitted within twenty (20) days or such other time as may be specified by the Commission.

§ 75.32 Initial report.

(a) The initial reporting date shall be the last day of the calendar month in which the Commission gives the licensee notice that an initial report is required.

(b) The initial report, to be submitted to the Commission on Form DOE/NRC-742, Material Status Report, in accordance with printed instructions for completing the form, shall list, by batch and IAEA material balance area, the quantities of nuclear material contained in or at an installation as of the initial reporting date.

(c) The initial report shall be dispatched within twenty (20) days after the initial reporting date.

§ 75.33 Accounting reports.

(a) The accounting reports for each IAEA material balance area shall consist of (1) inventory change reports showing all changes in the inventory of nuclear material and (2) material balance reports showing the material balance based on a physical inventory of nuclear material actually present.

(b) The reports shall be based on data available as of the date of reporting and may be corrected at a later date, as required.

§ 75.34 Inventory change reports.

(a) Inventory change reports, to be submitted on Form DOE/NRC-741, Nuclear Material Transaction Report, and prepared in accordance with printed instructions for completing the form, shall specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate, the originating material balance area and the receiving material balance area or the recipient.

(b) Inventory change reports, when appropriate, will be accompanied by concise notes (in the Miscellaneous block of Form DOE/NRC-741):

(1) Explaining the inventory changes on the basis of the operating records provided for under § 75.23; and

(2) Describing the anticipated operational program for the installation, including the schedule for taking physical inventory and such other items related to the Agreement as may be requested by the Commission.

(c) Inventory change reports shall be completed and distributed as soon as possible after the inventory change occurred or is established.

§ 75.35 Material balance reports.

(a) Material balance reports, to be submitted on Form DOE/NRC-742, Material Status Report, and prepared in accordance with printed instructions for completing the form, shall include the following entries:

(1) Beginning physical inventory;

(2) Inventory changes (first increases, then decreases);

(3) Ending book inventory;

(4) Shipper/receiver differences;

(5) Adjusted ending book inventory;

(6) Ending physical inventory; and

(7) Inventory difference (material unaccounted for).

A statement of the physical inventory, listing all batches separately and specifying material identification and batch data for each batch, shall be attached to each material balance report.

(b) Material balance reports shall be dispatched as soon as possible and in any event within thirty (30) days after the start of the physical inventory.

§ 75.36 Special reports.

(a) This section applies only to licensees who have been given notice, pursuant to § 75.41, that their installations are subject to the application of Agency safeguards.

(b) Each licensee who is subject to this section shall immediately make a special report to the Commission, by telephone, if:

(1) Any unusual incident or circumstances indicate that there is or may have been loss of nuclear material covered by the applicable license that exceeds limits specified for this purpose in a written communication from the Commission; or

(2) The containment has changed from that specified in a written communication from the Commission to the extent that unauthorized removal of nuclear material has become possible, unless information on the change had been reported to the Commission in the concise notes referred to in § 75.34(b)(2) in an inventory change report submitted at least 10 days before the change in containment occurs.

§ 75.37 Disclosure of reports to Agency.

The Commission may communicate to the Agency any reports submitted to it pursuant to this part or any information contained in such reports.

Installations Designated for Agency Safeguards

§ 75.41 Designation.

The Commission, by written notice, will designate those installations which, in accordance with identifications made from time to time by the IAEA, are subject to the application of Agency safeguards.

§ 75.42 Inspections.

(a) Each licensee who has been given notice, pursuant to § 75.41 shall afford to the Agency at all reasonable times opportunity to inspect its designated installation as provided in this section. Licensee representatives may accompany Agency inspectors, provided that the Agency inspectors are not thereby delayed or otherwise impeded in the exercise of their functions.

(b) Each licensee shall permit the Agency, in conducting any such inspections, to:

(1) Examine the records kept pursuant to § 75.21 of this part;

(2) Observe that the measurements of nuclear material at key measurement points for material balance accounting are representative;

(3) Verify the functioning and calibration of instruments and other measuring control equipment;

(4) Observe that samples at key measurement points for material balance accounting are taken in accordance with procedures which produce representative samples, to observe the treatment and analysis of the samples, and to obtain duplicates of such samples; and

(5) Arrange to use the Agency's own equipment for independent measurement and surveillance.

(c) Each licensee shall, at the request of an Agency inspector:

(1) Ship samples taken for the Agency's use, in accordance with applicable packaging and export licensing regulations, by the method of carriage and to the address specified by the inspector; and

(2) Take other actions contemplated by the Agreement, as evidenced by written notice from the Commission, including, for example:

(i) Enabling the Agency to arrange to install its equipment for measurement and surveillance;

(ii) Enabling the Agency to apply its seals and other identifying and tamper-indicating devices to containments;

(iii) Making additional measurements and taking additional samples for the Agency's use;

(iv) Analyzing the Agency's standard analytical samples;

(v) Using appropriate standards in calibrating instruments and other equipment; and

(vi) Carrying out other calibrations.

(d) Nothing in this section shall be deemed to require or authorize the licensee to carry out any operation that would otherwise constitute a violation of the terms of any applicable license, regulation, or order of the Commission.

(e) The Commission will to the extent feasible, upon request by a licensee, assign an employee to accompany any Agency representative engaged in an inspection described in this section.

(f) The Commission will normally provide a licensee advance notification of inspections to be carried out by Agency representatives. The licensee shall notify the Commission promptly, by telephone, whenever an Agency inspector arrives at an installation without such advance notification.

§ 75.43 Circumstances requiring advance notification.

(a) Each licensee who has been given notice, pursuant to § 75.41, shall give advance written notification to the Commission with respect to the international and domestic transfers specified in this section.

(b) *Exports.* Notification shall be given of any proposed shipment of nuclear material for peaceful purposes under an export license issued pursuant to Part 110 of this Chapter, in an amount exceeding one effective kilogram, directly or indirectly to any non-nuclear-weapon state (as referred to in Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons, 21 U.S.T. 483). If the licensee anticipates that it will make two or more shipments for peaceful purposes, within any period of 90 days, directly or indirectly to destinations in the same non-nuclear-weapon state, notification shall be given of each shipment if the aggregate quantity of nuclear material to be transferred exceeds one effective kilogram.

(c) *Imports.* (1) Notification shall be given (to the fullest extent possible on the basis of available information) with respect to nuclear material which immediately prior to export is subject to safeguards, under an agreement with the Agency, in the country from which the material, directly or indirectly, is being exported. Such notification is only required, however, if the quantities of nuclear material are as specified in paragraph (c)(2) of this section.

(2) Notification shall be given with respect to any proposed import of nuclear material described in paragraph (c)(1) of this section in an amount exceeding one effective kilogram. If the licensee anticipates that it will receive two or more shipments of such nuclear material, within any 90-day period from points of origin in the same country, notification shall be given with respect to each shipment if the aggregate quantity of such nuclear material to be received exceeds one effective kilogram.

(d) *Domestic transfers.* Notification shall be given with respect to any shipments of nuclear material (other than small quantities in the form of samples containing less than 0.01 effective kilogram per sample) to a non-eligible destination. As used in this paragraph, a "non-eligible destination" means any destination in the United

States other than an installation on the United States eligible list.

§ 75.44 Timing of advance notification.

(a) Except as provided in paragraph (b) of this section, notification to the Commission, where required by § 75.43 of this part, shall be given:

(1) In the case of exports and domestic transfers, at least twenty days in advance of the preparation of the nuclear material for shipment from the installation.

(2) In the case of imports, at least twelve days in advance of the unpackaging of nuclear material at the installation.

(b) For a particular receipt or shipment of nuclear material, the Commission will approve a shorter notice period than that specified by paragraph (a) of this section, for good cause, if it determines that observing the specified notification period would result in delay in shipment or unpackaging.

(c) The licensee shall inform the Commission, by phone, as soon as possible, with respect to any delay in the receipt (or unpackaging) or the shipment (or preparation for shipment) of nuclear material for which advance notification is required. New dates should be provided, if known.

§ 75.45 Content of advance notification.

(a) The notifications required by § 75.43 shall include the element weight nuclear material being received or shipped, the chemical and isotopic composition and physical form, the estimated date and place at the reporting installation where the nuclear material is to be unpackaged or prepared for shipment (and where the quantity and composition can be verified), the applicable IAEA material balance area at the reporting installation, the approximate number of items to be received or shipped, and the probable dates of receipt or shipment. The notification shall indicate that the information is being supplied pursuant to § 75.43.

(b) The notifications required with respect to export and import shipments shall also include:

(1) If available, a general description of containers (including, in the case of exports, features that would permit sealing);

(2) Destination of export as authorized under an export license issued pursuant to Part 110 of this chapter, or origin of import (by country and, if known, place);

(3) Means of transport; and

(4) Expected date and place of arrival in the destination country (for exports) or in the United States (for imports).

§ 75.46 Agency seals on nuclear material.

A licensee who has been given notice, pursuant to § 75.41, shall not break an Agency seal on any nuclear material except at the time such nuclear material is being unpackaged, when health and safety so requires, or at other times as authorized by the Commission.

§ 75.47 Expenses.

(a) Under the Agreement, the Agency undertakes to reimburse a licensee, who has been given notice, pursuant to § 75.41, for extraordinary expenses incurred as a result of its specific request: *Provided,* That the Agency has agreed in advance to do so. The Agreement also contemplates that in any case the Agency will bear the cost of making additional measurements or taking samples at the specific request of an Agency inspector.

(b) The Commission will inform the licensee, in writing, of those items of extraordinary expense which the Agency has agreed in advance to reimburse.

(c) The Commission will inform the licensee, in writing, of the procedures to be used to document:

(1) An Agency inspector's request for making additional measurements or taking additional samples; and

(2) An Agency request for a particular action by the licensee that will give rise to reimbursable extraordinary expense.

(d) The Commission will take such action as it finds to be appropriate to assist the licensee with respect to the reimbursement of any expense which, under the Agreement, is to be borne by the Agency.

Enforcement

§ 75.51 Violations.

(a) An injunction or other court order may be obtained prohibiting any violation of any provision of the Atomic Energy Act of 1954, as amended, or Title II of the Energy Reorganization Act of 1974, or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act, or section 206 of the Energy Reorganization Act of 1974, or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

(b) The Commission may issue such orders to secure compliance with the provisions of this part or to prohibit any violation of such provisions as may be proper to protect the common defense and security. Enforcement actions, including proceedings instituted with respect to Agreement State licensees, will be conducted in accordance with the procedures set forth in § 2.201 (notice of violation) and § 2.202 (order to show cause) of this chapter. Only NRC licensees, however, are subject to license modification, suspension, or revocation as such as a result of such enforcement actions.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

9. The citation of authority is amended by adding the following paragraph:

Authority * * * Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), § 150.17a issued under Sec. 161b, 68 Stat. 950 (42 U.S.C. 2201(b)).

§ 150.10 [Amended].

10. Section 150.10 is amended by inserting in the first sentence "150.17a," between "150.17" and "150.18".

11. A new § 150.17a is added to read as follows:

§ 150.17a Compliance with requirements of US/IAEA Safeguards Agreement.

(a) For purposes of this section, the terms "effective kilogram", "ore processing", "installation", and "United States eligible list" have the meaning set forth in § 75.4 of this chapter.

(b) Each person who, pursuant to an Agreement State License, is authorized to possess source material in amounts greater than one effective kilogram (except in ore processing) is subject to the provisions of Part 75 of this chapter and shall comply with its applicable provisions. An applicant for such a license shall file with the Commission, at least 9 months prior to the date when the applicant desires to receive such source material or earlier upon request by the Commission, the installation information described in § 75.11 of this chapter; except that in the case of applicants who desire to receive the source material within 9 months after the effective date of this section, the

installation information shall be submitted as soon as possible and the applicant shall permit verification by the International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in §§ 75.6, 75.11–75.14 of this chapter. The Commission will grant an exemption from this requirement, upon application, if it determines that the installation will not be included on the United States eligible list.

Part 170—Fees for Facilities and Materials Licenses and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

12. Section 170.11 is amended by adding a new paragraph (a)(10) to read as follows:

§ 170.11 Exemptions.

(a) No application fees, licensee fees, renewal fees, or inspection fees shall be required for:

* * * * *

(10) Activities of the Commission undertaken, pursuant to Part 75 of this chapter, solely for the purpose of implementation of the US/IAEA Safeguards Agreement.

* * * * *

Dated at Washington, DC this 12th day of July, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79–22007 Filed 7–16–79; 8:45 am]

BILLING CODE 7590–01–M

Adequacy and Acceptance of Emergency Planning Around Nuclear Facilities

[10 CFR Part 50]

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Nuclear Regulatory Commission is considering the adoption of additional regulations which will establish as conditions of power reactor operation increased emergency readiness for public protection in the vicinity of nuclear power reactors on the part of both the licensee and local and state authorities. The Commission is interested in receiving public comment on objectives for effective plans, acceptance criteria for State/local emergency plans, NRC concurrence in State and local plans as a requirement for issuance of an operating license or for continued operation of a nuclear facility, and coordination between the licensee plan and State and local plans. The Commission seeks written comments on what items should be included in the rule.

DATES: Comments are due no later than August 31, 1979.

ADDRESSES: Written comments concerning these issues should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Patricia A. Comella, Site Designation Branch, Office of Standards Development, Nuclear Regulatory Commission, Washington, DC 20555, 301–443–5981.

SUPPLEMENTARY INFORMATION: The NRC requires that power reactor license applicants plan for radiological emergencies within their plant sites and make arrangements with State and local organizations to respond to accidents that might have consequences beyond the site boundary. In this way off-site emergency planning has been related to the nuclear licensing process. *See* 10 CFR Part 50, Appendix E (1979), *see also* additional guidance in U.S. NRC, Regulatory Guide 1.101, "Emergency Planning for Nuclear Power Plants," (Rev. 1, 1977).

To aid State and local governments in the development and implementation of adequate emergency plans, the NRC, in conjunction with seven other Federal agencies, has attempted, on a cooperative and voluntary basis, to provide for training and instruction of State and local government personnel and to establish criteria to guide the preparation of emergency plans. However, the NRC has not made NRC approval of State and local emergency plans a condition of nuclear power plant operation.

The accident at Three Mile Island has raised a number of questions about the adequacy of radiological emergency response plans. Even before the accident the GAO had recommended that NRC not license new power plants for operation unless off-site emergency plans have been approved by the NRC. GAO, Report to the Congress, "Areas Around Nuclear Facilities Should Be Better Prepared For Radiological Emergencies," March 30, 1979. The Commission is also considering new guidance to State and local governments on emergency planning, based on an analysis of a joint NRC–EPA Task Force Report. "Planning Basis for Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," NUREG–0396/EPA 520/1–78–016, December 1978. *See* 43 Fed. Reg. 58658 (December 15, 1978), *see also* 44 Fed. Reg. 23137 (April 18, 1979). Furthermore, a number of organizations, including Critical Mass and Public Interest Research Groups, have renewed and supplemented a petition for rulemaking, previously denied by the Commission, concerning the operational details of evacuation planning. *See* 44 FR 32486 (June 6, 1979).

The Commission has decided to initiate an expedited rulemaking procedure on the subject of State and local emergency response plans and those of licensees. The Commission is soliciting public comments in this area, particularly on the following issues:

1. What should be the basic objectives of emergency planning?

a. To reduce public radiation exposure?

b. To prevent public radiation exposure?

c. To be able to evacuate the public?

To what extent should these objectives be quantified?

2. What constitutes an effective emergency response plan for State and local agencies? For licensees? What are the essential elements that must be included in an effective plan? Do existing NRC requirements for licensees (10 CFR Part 50, Appendix E) and guidance for States (NUREG–75/111) lack any of these essential elements?

3. Should NRC concurrence in the associated State and local emergency response plans be a requirement for continued operation of any nuclear power plant with an existing operating license? If so, when should this general requirement become effective?

4. Should prior NRC concurrence in the associated State and local emergency response plans be a requirement for the issuance of any new operating license for a nuclear power plant? If so, when should this general requirement become effective?

5. Should financial assistance be provided to State and local governments for radiological emergency response planning and preparedness? If so, to what extent and by what means? What should be the source of the funds?

6. Should radiological emergency response drills be a requirement? If so, under whose authority: Federal, State or local government? To what extent should Federal, State, and local governments, and licensees be required to participate?

7. How and to what extent should the public be informed, prior to any

emergency, concerning emergency actions it might be called upon to take?

8. What actions should be taken in response to the recommendations of the joint NRC/EPA Task Force Report (NUREG–0396/EPA 520/1–78–016)?

9. Under what circumstances and using what criteria should a licensee notify State, local, and Federal agencies of incidents, including emergencies? When, how, to what extent, and by whom should the public be notified of these incidents?

The comments received will be collected and evaluated by the NRC staff, which will, in turn, submit recommendations on proposed rules to the Commission. Based on the comments it receives from the public and the analysis of the problem presented by the NRC Staff, the Commission will determine whether to proceed with a proposed rule for notice and comment and/or whether to make such rule immediately effective. The Commission anticipates completion of this expedited rulemaking in approximately six months.

The NRC staff is presently conducting a comprehensive review of all aspects of the NRC emergency planning and preparedness program. Therefore, the Commission is also interested in receiving comments on all other aspects of emergency planning, including issues raised in the Critical Mass/PIRG petition for rulemaking and questions such as the following:

10. How and to what extent should the concerns of State and local governments be incorporated into Federal radiological emergency response planning?

11. How should Federal agencies interface with State and local governments and the licensee during emergencies?

12. Should the licensees be required to provide radiological emergency response training for State and local government personnel? If so, to what extent? Should the Federal government provide such training? If so, to what extent?

13. To what extent should reliance be placed on licensees for the assessment of the actual or potential consequences of an accident with regard to initiation of protective action? To what extent should this responsibility be borne by Federal, State or local governments?

14. Would public participation in radiological emergency response drills, including evacuation, serve a useful purpose? If so, what should be the extent of the public participation?

Dated at Washington, D.C., this 12th day of July, 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-22078 Filed 7-16-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 620]

[Docket No. 78N-0425]

Bacterial Products; Additional Standards for Typhoid Vaccine

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics Typhoid Vaccine regulations to ensure further the antigenic integrity of the Ty 2 strain of bacteria used in vaccine production and to require that licensed manufacturers obtain the U.S. Opacity Standard from the Bureau of Biologics. The FDA is also proposing to amend these regulations by establishing new standards for the performance and results of the potency test for each lot of manufactured Typhoid Vaccine.

DATES: Comment by September 17, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301–443–1306.

SUPPLEMENTARY INFORMATION: The Commissioner is proposing to amend the biologics regulations for manufacturing Typhoid Vaccine by setting potency standards for the Ty 2 strain of *Salmonella typhosa* used in the manufacture of Typhoid Vaccine and by revising the potency test under § 620.13 (21 CFR 620.13) consistent with new scientific knowledge derived from past experience with the product.

In the United States, typhoid disease has been in decline in recent years and routine typhoid vaccination is no longer recommended. However, immunization is indicated if a person has come into contact with a known typhoid carrier, if there is an outbreak of typhoid fever in the community, or if a person plans to travel to an area where typhoid fever is endemic.

Under section 351 of the Public Health Service Act (42 U.S.C. 262), Typhoid Vaccine offered for sale, barter, or exchange in interstate commerce must be licensed and meet certain standards that ensure its continued safety, purity, potency, and effectiveness. Minimum requirements for Typhoid Vaccine were first established on December 8, 1953, and revised on September 30, 1966. Additional standards were published in the **Federal Register** on June 4, 1969 (34 FR 8914) and recodified as §§ 620.10 through 620.15 (21 CFR 620.10 through 620.15), on November 20, 1973 (38 FR 32048). Under § 620.14(c) of the additional standards (21 CFR 620.14(c)), Typhoid Vaccine shall not be issued by the manufacturer until written notification of official release is received from the Director, Bureau of Biologics (BOB). Official written release is issued only after the Director has reviewed the protocol and tested samples to ensure the continued safety, purity, potency, and effectiveness of Typhoid Vaccine.

On the basis of new scientific knowledge derived from product release data accumulated and analyzed by BOB for the past several years, FDA is proposing amendments to the additional standards for Typhoid Vaccine, including the following:

(1) Strain Ty 2 of *Salmonella typhosa* is used in the manufacture of Typhoid Vaccine. To ensure the antigenic integrity of the Ty 2 strain, FDA is proposing to amend § 620.11 (21 CFR 620.11) to require that antigenic integrity be verified by the agglutination of living bacteria by a Ty 2 antiserum.

(2) To clarify the source for obtaining necessary reference materials, FDA proposes to amend § 620.12 (21 CFR 620.12) to require that the U.S. Standard Typhoid Vaccine and the U.S. Opacity Standard be obtained from the Bureau of Biologics.

(3) Saline is required for use in dilutions of the vaccine and challenge doses used in the potency test. The use of phosphate-buffered saline (PBS) by the BOB has not resulted in any detectable changes in the potency test. Accordingly, FDA is porposing to amend § 620.13(b)(1) and (c)(2) to permit the use of PBS for diluting the vaccine, the challenge, and virulence titrations of Strain Ty 2 of *Salmonella typhosa*.

(4) Based on statistical methods used in, and results derived from, Typhoid Vaccine potency tests performed at the BOB, FDA is proposing to amend § 620.13(e) to require that new statistical methods be used for determining the validity of the potency test. For consistency, FDA proposes to amend

§ 620.13(g) to eliminate the requirement that the standard deviation be used as the basis for calculating the ED_{50} of each lot of Typhoid Vaccine.

(5) Based on test data accumulated and analyzed by the BOB, the agency has determined that existing § 620.13(e)(6) should be amended to change the maximum challenge dose of typhoid bacteria from 10 to 20 colony forming units per LD_{50}. This change, as found in § 620.13(e)(7) of the proposed amendments, would decrease the frequency of repeat tests that may be necessary to meet the criteria for test validity.

(6) Consistent with the changes proposed in § 620.13(e) and due to the statistical significance of the biological variations encountered in Typhoid Vaccine potency testing, FDA is proposing to amend § 620.13(f) to prescribe conditions for repeat potency tests and to require that the results of not more than four valid tests be used for determining that Typhoid Vaccine meets the potency requirements.

(7) The agency has determined that the potency test is of such a variable nature that it necessitates at least two separate assays of the required potency test on each lot of Typhoid Vaccine before submission to the BOB. Accordingly, FDA is proposing to amend § 620.13(h) to require that the results of at least two separate tests be submitted to the BOB, and to prescribe potency requirements based on the results of at least two, but no more than four, tests. From the statistical data accumulated and analyzed in the potency testing of Typhoid Vaccine, FDA is also proposing new minimum values based on the number of tests performed, for the geometric mean relative potency for each lot.

Pertinent background data on which the agency relies in proposing these amendments are on public display in the Office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FDA 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 Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 620 be amended as follows:

1. In § 620.11 by redesignating existing paragraph (a) as paragraph (a)(1) and adding a new paragraph (a)(2) to read as follows:

§ 620.11 Production.

(a) *Strain of bacteria*—(1) Strain Ty 2 of *Salmonella typhosa* shall be used in the manufacture of Typhoid Vaccine.

(2) The antigenic integrity of the Ty 2 strain shall be verified by the agglutination of living bacteria by Ty 2 antiserum.

* * * * *

2. By revising § 620.12 to read as follows:

§ 620.12 U.S. Standard preparations.

The following U.S. Standard preparations shall be obtained from the Bureau of Biologics, Food and Drug Administration, for use as prescribed in this subpart:

(a) *Vaccine standard.* The U.S. Standard Typhoid Vaccine for determining the potency of Typhoid Vaccine.

(b) *Opacity standard.* The U.S. Opacity Standard for adjusting the opacity of the suspension from which the challenge culture is prepared.

3. In § 620.13 by revising the introductory paragraph and paragraphs (b)(1), (c)(2), (e), (f), (g), and (h) to read as follows:

§ 620.13 Potency test.

The number of potency units per milliliter shall be estimated for each lot of vaccine from the results of simultaneous mouse protection tests of the vaccine under test and of the U.S. Standard Typhoid Vaccine. At least four dilutions of each lot of vaccine shall be tested. The test shall be performed as follows:

* * * * *

(b) *Inoculation of vaccine.* (1) Serial dilutions, no greater than 5-fold, of the vaccine to be tested and of the standard vaccine shall be made in saline (0.85 percent sodium chloride solution or phosphate-buffered saline). The mean effective dose (ED_{50}) value shall be bracketed by the dilutions used. Each mouse in each group for inoculation shall be injected intraperitoneally with 0.5 mL of the appropriate dilution.

* * * * *

(c) * * *

(2) The challenge and virulence titration doses shall be prepared as follows: The bacteria shall be harvested from a 5- to 6-hour culture grown at 36° ±1° C on a suitable agar medium that shall have been seeded from a 16- to 20-hour culture grown at 36°±1° C on a suitable agar medium, and the harvested bacteria then shall be uniformly suspended in saline or phosphate-buffered saline. The suspension, freed from agar particles and clumps of bacteria and adjusted to an opacity of 10 units, shall be diluted in saline or phosphate-buffered saline by 10-fold increments. The suspensions for the challenge and virulence titration doses shall be put into a sterile gastric mucin preparation. The challenge suspension shall be prepared from whichever bacterial dilution provides about 1,000 colony forming units for a 0.5 milliliter challenge dose. The virulence titration suspensions shall be 10^{1}, 10^{2}, and 10^{3} dilutions, respectively, of the challenge suspension.

* * * * *

(e) *Validity of the test.* The test is deemed valid if—

(1) The ED_{50} of the vaccine under test and the Standard Vaccine is between the largest and smallest doses inoculated into the mice;

(2) The test for homogeneity of the dose response lines for both the vaccine under test and the standard vaccine shall be acceptable;

(3) A graded protective response is obtained in relation to the vaccine dilutions;

(4) The slopes of the dose response curves for the vaccine under the test and the standard vaccine shall be shown to be parallel by an appropriate statistical method;

(5) The results of all dilutions shall be used to calculate the ED_{50} value of both the standard and test vaccine by the Parallel Line Bioassay Method or a method statistically equivalent to it;

(6) The challenge dose contains approximately 1,000 colony forming units; and

(7) The LD_{50} of the challenge dose contains no more than 20 colony forming units.

(f) *Repeat test.* If the test does not meet the criteria prescribed in paragraph (e) of this section, repeat test may be performed. The results of all tests shall be combined by geometric mean. Any test result established as invalid under § 610.1 of this chapter may be disregarded. The determination that the vaccine meets the potency requirements shall be made from the results of not more than four valid tests.

(g) *Estimate of the potency.* The ED_{50} of each vaccine shall be calculated. The protective unit value per milliliter of the vaccine under test shall be calculated in terms of the unit value of the standard vaccine.

(h) *Potency requirements.* The results of at least two separate test shall be

submitted to the Bureau of Biologics, Food and Drug Administration. The vaccine shall have a potency of 8.0 units per milliliter. This requirment shall be met only if the potency for two tests is not less than 3.9 units per milliliter; or for three tests, not less than 4.4 units per milliliter; or for four tests, not less than 4.8 units per milliliter.

Interested persons may, on or before September 17, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to 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 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–22000 Filed 7–16–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 1000]

[Docket No. 79N–0086]

Dental Post-Treatment Radiographs; Proposed Recommendation

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing a recommendaton to discourage insurance carriers from requiring post-treatment dental radiographs. This practice could result in patient radiation exposure that does not have a health care benefit that justifies the radiological risk. This proposal is a part of the agency's effort to minimize unnecessary exposure of the public to ionizing radiation.

DATE: Comments by September 17, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Alex Martin, Bureau of Radiological Health (HFX–460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under the Public Health Service Act as amended by the Radiation Control for health and Safety Act of 1968 (Pub. L. 90–602, 42 U.S.C. 263b et seq.), FDA's Bureau of Radiological Health (the Bureau) conducts and supports research, training, and operational activities to minimize unnecessary exposure of the public to electronic product radiation. In carrying out this purpose, FDA is authorized to make recommendations relating to the control of electronic product radiation that the agency considers appropriate. Accordingly, FDA proposes to add new § 1000.60 (21 CFR 1000.60) to provide an official recommendation discouraging the use of dental post-treatment radiographs by third-party carriers (insurance companies or insurance groups) to justify claims. In 1973, some third-party insurance carriers developed policies requiring post-treatment radiographs as a claim reimbursement prerequisite, to control problems of fraudulent claims and unsatisfactory dental care. Dental societies, State and Federal government organizations, and others interested in radiological health became concerned because such policies require patient exposure to radiation regardless of its clinical necessity or applicability. Moreover, it can be argued that some other means of claims verification, such as random spot-checking of patients by an independent dentist for the insurance carrier, is a more effective approach to detecting false claims or of assessing poor dental care. This is particularly true because radiographs can be substituted for one another without easy detection.

The Bureau first became involved in the problem of third-party carrier requests for post-treatment dental radiographs during 1973 to 1974 in Pennsylvania, where a major dental insurance carrier planned to require post-treatment dental radiographs for insurance claims. Meetings and conferences were held with personnel from the Bureau, the Pennsylvania State Health Department, the Pennsylvania Dental Society, and Pennsylvania Blue Shield for the purpose of developing acceptable guidelines for the use of dental radiographs by insurance carriers. The problem of excessive carrier demand for post-treatment dental radiographs was diminished largely because of the efforts of those attending these cooperative meetings. The major accomplishment was a modification of the dental carriers' requirements for post-treatment radiographs. However, no formal policy on this issue was published by FDA or the Bureau.

The agency is not aware of current insurance company requirements that radiographs be submitted as proof for dental insurance claims. Since 1973, the demand for dental insurance has increased considerably and continues to rise. The American Dental Association (ADA) estimates that 35 to 40 million Americans were covered by privately sponsored dental care plans in 1977. In early 1978, ADA projected that the number would reach 60 million by 1980. (See, for example, the ADA Leadership Bulletin, Volume VIII, No. 5, February 27, 1978.) Only a year later, in February 1979, ADA estimated the 60 million mark had already been passed. (See ADA News, February 19, 1979.) Thus, it is possible that, with the rapid increase in numbers of people covered by dental insurance, the demand for monitoring dental insurance claims by post-treatment x-rays may rise again.

FDA believes that the use of dental radiographs merely to monitor dental treatment claims for reimbursement constitutes a source of unnecessary radiation exposure to the population. Justification for each x-ray exposure requires that there be some potential benefit to the individual receiving it. X-ray examinations performed for diagnostic reasons in the normal course of dental care are beneficial to the patient when the radiographs are carefully evaluated by the dentist in view of the patient's symptoms and individual dental care needs. However, post-treatment dental radiography is essentially a screening procedure that is not based on a patient's dental care needs. In those instances where a post-treatment dental x-ray examination is indicated, the decision to perform it should be made only by the patient's dentist. This philosophy is consistent with the directive "Radiation Protection Guidance to Federal Agencies for Diagnostic X-rays" issued by the President in the **Federal Register** of February 1, 1978 (43 FR 4377).

Although fraudulent claims and substandard dental care, to the extent that they occur, directly or indirectly harm patients and society and should be discouraged, that discouragement should not entail a radiological risk to

patients without a benefit to each patient.

The proposed recommendation would provide guidance to dentists, organizations responsible for administering dental care, and third-party carriers responsible for reimbursing the provider of dental care. The proposed recommendation has been reviewed and endorsed by the Bureau's Medical Radiation Advisory Committee (MRAC), an advisory committee established under section 222 of the Public Health Service Act (42 U.S.C. 217a). It advises FDA on formulation of policy and development of coordinated national programs relating to optimal applications of ionizing radiation for medical and dental purposes. Comments by MRAC members as well as additional comments by other interested persons about the proposed recommendation have been placed on file with the FDA Hearing Clerk, address below.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 356, 82 Stat. 1174–1175 (42 U.S.C. 263d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 1000 be amended by adding new § 1000.60 to read as follows:

§ 1000.60 Recommendation against taking post-treatment dental radiographs solely for third-party insurance carriers.

The Food and Drug Administration formally recommends that dental radiographs not be taken solely for monitoring dental treatment claims for reimbursement by insurance carriers. This practice constitutes a source of unnecessary radiation exposure to the population. As a general principle, there should be some potential benefit to any individual receiving x-ray exposure. For example, x-ray examinations performed for diagnostic reasons in the normal course of dental care can benefit the patient. However, post-treatment dental radiography, when required by a remote party, is essentially a screening procedure that is not always needed for patient management because the decision to perform the x-ray procedure is not dependent on the patient's dental care needs.

A decision to perform dental x-ray examinations should be made by the patient's dentist. The taking of post-treatment dental radiographs should be restricted to cases in which the patient's dentist believes there is a direct benefit to the patient. Post-treatment radiographs should not be taken solely for use by third-party carriers for monitoring claims, for fraud detection, or as a prerequisite for payment. This recommendation is consistent with the Presidential directive of January 26, 1978, "Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays," published in the **Federal Register** of February 1, 1978 (43 FR 4377).

Interested persons may, on or before September 17, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to 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 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 2, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–21805 Filed 7–16–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF STATE

Office of the Secretary

[22 CFR Parts 7, 50, and 51]

[Docket No. SD–147]

Board of Appellate Review, Nationality Procedures, Passports; Miscellaneous Amendments

Correction

In FR Doc. 79–20919, published at page 39473, on Friday, July 6, 1979, in the "Dates" section, on page 39474, the comment period ending "August 6, 1979" should be corrected to read "September 4, 1979".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 9]

[Notice No. 325]

American Viticultural Area Designations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing the establishment of a viticultural area in Missouri named "Augusta."

If this proposed viticultural area is approved, it would be the first grape growing region to be designated as a viticultural area under the new provisions of 27 CFR Part 4. These provisions regulate the use of appellations of origin in the labeling and advertising of wine.

DATE: Comments must be received on or before August 16, 1979.

ADDRESS: Comments must be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044, (Attention: Chief, Regulations and Procedures Division).

FOR FURTHER INFORMATION CONTACT: Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202–566–7626).

SUPPLEMENTARY INFORMATION: On August 23, 1978, the Bureau published Treasury Decision (TD) ATF–53 (43 FR 37671, 54624) amending certain regulations in 27 CFR Part 4 relating to the labeling and advertising of wine. Part of this Treasury decision dealt with appellations of origin for wine. Viticultural areas, defined for American wine as delimited grape growing regions distinguishable by geographic characteristics, were included as one of the types of appellations to be allowed.

ATF has determined that viticultural areas would be established by regulation in accordance with the Administrative Procedure Act. Any interested party may petition ATF under 5 U.S.C. 553(e) for the establishment of a viticultural area.

TD–ATF–53, specifically 27 CFR 4.25a(e)(2), established certain criteria for petitions and designated 27 CFR Part 9 for the listing of approved viticultural areas. The Bureau is in the process of establishing Part 9 by final rule. Petitions may be in the form of a letter, and should contain the following information: (1) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application; (2) historical or current evidence that the boundaries of the viticultural area are as

specified in the application; (3) evidence relating to the geographical characteristics, (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas; (4) the specific boundaries of the viticultural area, based on features which can be found on U.S. Geological Survey (U.S.G.S.) maps of the largest applicable scale; and (5) a copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition requesting that a delimited grape growing area surrounding Augusta, Missouri, be recognized and designated by regulation as an American viticultural area know as "Augusta." The supporting evidence required by 27 CFR 4.25a(e)(2) was submitted with the petition. The petition, with all appendices and maps, is on file with ATF.

The boundaries of the proposed Augusta viticultural area may be found on two U.S.G.S. 7.5 minute quadrangle maps ("Washington East, Missouri" and "Labadie, Missouri"). The boundaries are as follows:

1. The beginning point of the boundary is the intersection of the St. Charles County line, the Warren County line, and the Franklin County line;

2. The western boundary is the St. Charles County-Warren County line from the beginning point to the township line identified on the approved maps as "T45N/T44N;"

3. The northern boundary is the township line "T45N/T44N" from the St. Charles County-Warren County line to the range line identified on the approved maps as "R1E/R2E;"

4. The eastern boundary is the range line "R1E/R2E" from township line "T45N/T44N" extended to the St. Charles County-Franklin County line; and

5. The southern boundary is the St. Charles County-Franklin County line from the extension of range line "R1E/R2E" to the beginning point.

As a result of this petition, ATF proposes the amendment of 27 CFR Part 9 by adding regulations establishing the Augusta viticultural area.

Public Participation

ATF requests comments from all interested persons. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

Copies of the petition, the proposed regulations, the appropriate maps, and any written comments are available for public inspection during normal business hours at the following location:

Public Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 30-day comment period. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Thomas Minton of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

Accordingly, in this document under the authority contained in 27 U.S.C. 205, the Director proposes to add Part 9, Subpart C, § 9.22 to 27 CFR Chapter I as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The table of sections in 27 CFR Part 9, Subpart C would read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

Sec.
9.22 Augusta

2. Section 9.22 would read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.22 Augusta.

(a) *Name.* The name of the viticultural area described in this section is "Augusta."

(b) *Approved maps.* The approved maps for the Augusta viticultural area are two U.S.G.S. maps. They are titled—

(1) "Washington East, Missouri", 7.5 minute quadrangle; and

(2) "Labadie, Missouri", 7.5 minute quadrangle.

(c) *Boundaries.* The boundaries of the Augusta viticultural area are located in the State of Missouri and are as follows:

(1) The beginning point of the boundary is the intersection of the St. Charles County line, the Warren County line and the Franklin County line.

(2) The western boundary is the St. Charles County-Warren County line from the beginning point to the township line identified on the approved maps as "T45N/T44N."

(3) The northern boundary is the township line "T45N/T44N" from the St. Charles County-Warren County line to the range line identified on the approved maps as "R1E/R2E."

(4) The eastern boundary is the range line "R1E/R2E" from township line "T45N/T44N" extended to the St. Charles County-Franklin County line.

(5) The southern boundary is the St. Charles County-Franklin County line from the extension of range line "R1E/R2E" to the beginning point.

Signed: June 26, 1979.

G. R. Dickerson,

Director.

Approved: July 10, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-21991 Filed 7-16-79; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1275-3]

Approval and Promulgation of Implementation Plans; Iowa

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The State of Iowa has submitted State Implementation Plan (SIP) revisions for non-attainment areas in the State of Iowa to fulfill the requirements of the Clean Air Act Amendments of 1977. Interested persons are invited to examine the Iowa SIP revisions and submit comments on them. A notice of proposed rulemaking describing the revisions will be published in the **Federal Register** at a later date. The period for submittal of comments will extend for 30 days after publication of the proposed rulemaking.

ADDRESSES: Comments should be sent to: Daniel J. Wheeler, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The Iowa submissions may be examined during normal business hours at the above

address and also at the following locations: Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460; the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50316; the Department of Environmental Quality Regional Offices located at: 209 North Franklin Street, Manchester, Iowa 52057; 509 South President, Mason City, Iowa 50401; 401 Grand Avenue, Suite 24, Spencer, Iowa 51301; 316 Walnut, Atlantic, Iowa 50022; and 117 North Second Avenue, Washington, Iowa 52353; the Des Moines-Polk County Health Department, East First and Des Moines Streets, Des Moines, Iowa 50309; and the Linn County Health Department, 751 Center Point Road, N.E., Cedar Rapids, Iowa 52402.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, 816–374–3791, (FTS 758–3791).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act as amended in 1977 requires that states revise their SIPs to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) in areas which have been designated as non-attainment. The State of Iowa has submitted SIP revisions in response to requirements of the Clean Air Act.

The purpose of this notice is to announce that the revisions have been formally submitted and are available for public inspection. The public is encouraged to submit written comments on them. A description of the revisions and proposed Environmental Protection Agency action on the revisions will be published in the **Federal Register** as part of a notice of proposed rulemaking at a later date.

(42 U.S.C. 7410)

Dated: July 3, 1979.

Kathleen Camin,

Regional Administrator.

[FR Doc. 79–22049 Filed 7–16–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 81]

[FRL 1273–5]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations: Alabama

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: The United States Court of Appeals for the Fifth Circuit in *United States Steel Corp.* v. *United States Environmental Protection Agency,* (No. 78–1922) and *Republic Steel Corp.* v. *EPA* (No. 78–1927) (5th Cir., decided May 3, 1970) has ordered that the Section 107 non-attainment area designations for the primary national ambient air quality standard for particulate matter for specific portions of Jefferson and Etowah County, Alabama, be set aside and repromulgated with proper notice and comment. Pursuant to this court order EPA, by this **Federal Register** notice, is proposing to designate the two areas in question non-attainment for the primary and secondary standard for particulate matter.

DATE: Written public comment should be submitted to the person named below, and must be received on or before August 16, 1979, to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Gregory, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308; telephone 404/881–2864 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: The Clean Air Act, as amended in 1977 (CAA) imposed several new requirements on the states and EPA. Among them, the CAA added Section 107(d) which directed each state, within 120 days after the Amendments were enacted, to submit to the Administrator a list describing the National Ambient Air Quality Standards attainment status for all areas within the state. The Administrator was then required to promulgate the state's lists, with any necessary modifications, as a final rule within sixty days of their submittal.

Pursuant to the Section 107(d) requirement, the State of Alabama submitted to EPA its list of air quality attainment designations. In its list, Alabama designated a portion of Central Birmingham, located in Jefferson County, and a portion of Etowah County as non-attainment areas for primary TSP standards.

On March 3, 1978 (43 FR 8962), the Administrator published Alabama's designations as final agency action without providing prior notice or opportunity to comment. These designations were made immediately effective because the Administrator determined that the strict statutory deadlines of Section 107 and the need to provide the states with guidance in the SIP process warranted such action. The Administrator, however, did invite public comments during a sixty-day period after promulgation of the designations, and he indicated he would modify the rule if any comments received demonstrated that such action was necessary.

In the cases of *United States Steel* and *Republic Steel,* above, the Fifth Circuit held that EPA had violated the Administrative Procedures Act, 5 U.S.C. 551 et seq., by failing to give prior notice and opportunity for comment before promulgation of the designations in question. Therefore, the court ordered EPA to repromulgate these designations following the proper procedures. The court's ruling did not affect Alabama's obligation under the act to submit a timely Part D SIP revision for other areas or for the two areas in question for other pollutants.

Therefore, pursuant to the Fifth Circuit's order, EPA is proposing to designate the central Birmingham area located in Jefferson County non-attainment for primary and secondary TSP and portions of Etowah County non-attainment for primary and secondary TSP. This proposal is based on the most recent eight quarters of ambient air monitoring data available. Before taking final action, the Agency will verify that the data submitted by the state satisfies all applicable EPA criteria established to assure the validity and representativeness of air quality data.

Written public comment should be submitted to the person named below, and must be received on or before August 16, 1979, to be considered. A longer comment period is not deemed necessary because: (1) The plaintiffs in the litigation mentioned, United States Steel Company and Republic Steel Company, are being sent actual notice of this proposal; and (2) the Alabama submittal, and substantive issues involved, are not so complex as to require a longer comment period, particularly for the two companies mentioned, who are already thoroughly familiar with the attainment status designation process and applicable EPA guidance.

(Secs. 107, 171, 301 of the Clean Air Act (42 U.S.C. 7407, 7501, and 7601))

Dated: June 27, 1979.

Paul Traina,

Acting Regional Administrator.

[FR Doc. 79–21929 Filed 7–16–79; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

[41 CFR Part 101-11]

Records Management; Source Data Automation Program

AGENCY: General Services Administration, National Archives and Records Service (NARS).

ACTION: Proposed rule.

SUMMARY: This rule revises the definition of source data automation (SDA) and promulgates a new regulation relating to SDA in order to help achieve operational benefits and cost savings through the effective management and use of SDA.

DATE: Comments must be received on or before September 17, 1979.

ADDRESS: Comments should be addressed to: General Services Administration (NRTA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Jack Kravitz, Acting Chief, Automated Information Branch, Information Technology Divison, Office of Records and Information Management, General Services administration (NRTA), Washington, DC 20408, 202-376-8838.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

It is proposed to amend the table of contents for Part 101-11 by adding the following entries:

Subpart 101-11.14—Source Data Automation in Records Systems

Sec.
101-11.1400 Scope of subpart.
101-11.1401 Authority.
101-11.1402 Definition of source data automation (SDA).
101-11.1403 Program objectives.
101-11.1404 Applications.
101-11.1405 Criteria for the use of SDA.
101-11.1406 Agency responsibilities.

Subpart 101-11.14 is added to read as follows:

Subpart 101-11.14—Source data Automation in Records Systems

§ 101-11.1400 Scope of subpart.

This subpart contains information about the appropriate application of source data automation (SDA) to the automation of records systems.

§ 101-11.1401 Authority.

As required by 44 U.S.C. Chapter 29, the Administrator of General Services shall provide guidance and assistance to Federal agencies in records creation.

§ 101-11.1402 Definition of source data automation (SDA).

SDA is the recording of data in machine-readable form at the point of origin for entry into an automated system. Usually, the machine-readable data are simultaneously recorded in both machine-readable and human-readable form. If the data are initially recorded on human-readable source documents and later converted to machine-readable form, the process is not SDA. For example, keypunching from source documents or coding sheets is not SDA.

§ 101-11.1403 Program objectives.

The primary objective of the Federal Government's SDA program is to achieve cost savings and operational benefits through the effective management and use of SDA. SDA can reduce data-entry costs and processing time, and improve the timeliness of data.

§ 101-11.1404 Applications.

Following are more common SDA applications:

(a) *Personnel data.* Output, work time, attendance.

(b) *Order entry.* Sales to the public, accounting and inventory data.

(c) *Surveys.* Responsive to surveys.

(d) *Productivity studies.* The output of operators of automated equipment.

(e) *Inventory control.* Items on hand, reorder data.

(f) *Inspection data.* Onsite findings.

(g) *Quality control.* Quality levels, defects, and corrective measures using voice recognition technology to record data.

(h) *Mail.* Sorting and routing.

(i) *Graphics.* Graphs, charts, exhibits, drawings, and maps created and revised with the aid of light pens and graphic CRTs.

(j) *Testing.* Completing and scoring tests.

§ 101-11.1405 Criteria for the use of SDA.

SDA should be considered if the data originally created in human-readable form are to be later entered into an automated system. An evaluaton should be made to determine if SDA is appropriate and cost-effective when timeliness is a critical factor or there is a large volume of data, a high degree of repetition, or a large transcription error rate.

§ 101-11.1406 Agencies' responsibilities.

Federal agencies shall:

(a) Apply SDA to existing and proposed records systems and procedures if studies demonstrate that SDA would be cost-effective.

(b) Approve proposed SDA Applications only if they have been adequately evaluated and are considered to be feasible, cost-effective, and compatible with related automated systems.

(c) Review existing SDA applications within the first year and every 2 years thereafter to assess their effectiveness.

(d) Comply with FPR-1-4.11—Procurement and Contracting for Governmentwide Automated Data Processing Equipment, Software Maintenance, Services and Supplies and FPMR 101-36.5—ADP Management Information System (ADP/MIS), Amendment F-31, June 1978.

(e) Maintain records that document compliance with the requirements of this section.

Subparts 101-11.15—101-11.48 [Reserved]

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

Dated: July 9, 1979.

James B. Rhoads,

Archivist of the United States.

[FR Doc. 79-21965 Filed 7-16-79; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL MARITIME COMMISSION

[46 CFR Part 522]

[Docket No. 76-63]

Filing of Agreements by Common Carriers and Other Persons Subject To the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of Time To File Comments.

SUMMARY: The Commission's revised notice of proposed rulemaking in this proceeding (44 FR 36077; June 20, 1979) allowed 21 days for interested persons to submit comments. Comments are currently due July 11, 1979. Counsel for Inter-American Freight Conference and counsel for unspecified conference clients have requested additional time to file comments.

A rulemaking of this scope and nature clearly would significantly impact on all conferences of carriers. The original 21 day comment period appears to be insufficient for some conferences to obtain and collate the views of all their members. In recognition of these

problems we have determined to grant a 14 day enlargement of time for filing comments.

DATE: Comments on or before July 25, 1979.

ADDRESS: Comments (orginal and fifteen copies) should be directed to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney (202) 523–5760.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79–21987 File 7–16–79; 8:45 am]

BILLING CODE: 6730–01–M

Notices

Federal Register
Vol. 44, No. 138
Tuesday, July 17, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Blackshear Pig Sale, Inc.; Posted Stockyards

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

Georgia

GA-187—Blackshear Pig Sale, Inc., Blackshear, Georgia; June 18, 1979.

Minnesota

MN-173—Rush City Livestock Auction, Rush City, Minnesota; June 26, 1979.
MN-171—Minnesota Feeder Pig Markets, Inc., Windom, Minnesota; February 5, 1979.
MN-172—Winger Livestock Sales, Winger, Minnesota; April 30, 1979.

South Dakota

SD-162—Yankton Livestock Auction Market, Yankton, South Dakata; February 15, 1979.

Done at Washington, D.C., this 12th day of July 1979.

Edward L. Thompson,

Chief, Registrations, Bonds and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-22043 Filed 7-16-79; 8:45 am]

BILLING CODE 3410-02-M

Casey Stock Yard, Inc.; Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
AL-157—Casey Stock Yard, Inc., Montgomery, Alabama.	October 21, 1974.
CA-121—Escondido Livestock Auction, Escondido, California.	October 28, 1959.
KS-117—Lane County Livestock Auction and Market, Inc., Dighton, Kansas.	April 15, 1950.
OK-111—Buffalo Livestock Auction Market, Buffalo, Oklahoma.	August 12, 1952.
OK-120—Cordell Livestock Auction, Inc., Cordell, Oklahoma.	April 9, 1959.
OK-191—Beeline Auction Yard Co., Glenpool, Oklahoma.	September 21, 1973.
OK-143—Locust Grove Sale Barn, Locust Grove, Oklahoma.	May 1, 1959.
OK-167—Seiling Sales Association, Inc., Seiling, Oklahoma.	March 12, 1956.
TX-182—Groveton Auction Company, Groveton, Texas.	September 19, 1968.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective on July 17, 1979.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 11th day of July, 1979.

Edward L. Thompson,

Chief, Registrations, Bonds and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-22041 Filed 7-16-79; 8:45 am]

BILLING CODE 3410-02-M

Southeast Alabama Feeder Pig Association Brundidge, Alabama; Proposed Posting of Stockyards

The Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AL-163—Southeast Alabama Feeder Pig Association, Brundidge, Alabama.
CO-149—Richard A. Ross Auction Service, La Jara, Colorado.
GA-188—Tattnall County Feeder Pig Sale, Glennville, Georgia.
KY-164—The Cross-Walton Livestock Market Center, Walton, Kentucky.
SD-163—O'Connell's Lake Road Arena, Aberdeen, South Dakota.
TX-317—Wintergarden Stockyards, Inc., Pearsall, Texas.
TX-318—Stephenville Cattle Company, Stephenville, Texas.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, by August 1, 1979.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 12th day of July, 1979.

Edward L. Thompson,

Chief, Registrations, Bonds and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-22042 Filed 7-16-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

Humanely Slaughtered Livestock Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 *et seq.*), which have been officially reported as using humane methods of

slaughter and incidental handling of the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant by notices published in the **Federal Register**. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected and passed at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all such species are listed for that establishment in the table, nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

Done at Washington, D.C., on July 11, 1979.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

BILLING CODE 3410-37-M

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 1 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ARMOUR FOOD CO	2AT					(*)	
ARMOUR & CO	2CC	(*)					
ARMOUR & CO	2H					(*)	
ARMOUR & CO	2SD					(*)	
ARMOUR & CO	2W					(*)	
ARMOUR & CO	2WN	(*)				(*)	
SWIFT & CO	3AE					(*)	
SWIFT & CO	3BW	(*)	(*)	(*)	(*)		
SWIFT FRESH MEATS CO	3C	(*)				(*)	
SWIFT & CO	3CN			(*)	(*)		
SWIFT FRESH MEATS CO	3D	(*)					
SWIFT & CO	3G	(*)					
SWIFT FRESH MEATS CO	3GI	(*)					
SWIFT & CO	3GW					(*)	
SWIFT & CO	3H	(*)				(*)	
SWIFT & CO	3L					(*)	
SWIFT & CO	3N	(*)				(*)	
SWIFT & CO	3S					(*)	
SWIFT & CO	3Y	(*)					
SWIFT & CO	3Z	(*)					
LYKES BROS INC	8	(*)	(*)				
LYKES BROS INC	8B	(*)	(*)				
PAULY PACKING CO INC	10	(*)	(*)				
FRENCH CITY MEATS INC	11	(*)	(*)			(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12A					(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12FW	(*)	(*)			(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12P	(*)					
JOHN MORRELL & CO	17A	(*)				(*)	
JOHN MORRELL & CO	17D	(*)		(*)		(*)	
JOHN MORRELL & CO	17E					(*)	
JOHN MORRELL & CO	17U	(*)					
WILSON FOODS CORPORATION	20H					(*)	
WILSON FOODS CORPORATION	20I	(*)				(*)	
WILSON FOODS CORPORATION	20L	(*)				(*)	
WILSON FOODS CORPORATION	20MO					(*)	
WILSON FOODS CORPORATION	20Q	(*)	(*)			(*)	
WILSON FOODS CORPORATION	20Y	(*)	(*)	(*)		(*)	
PATRICK CUDAHY INC	28					(*)	
KREINBERG AND KRASNY INC	30	(*)					
SUPERIOR BRAND MEATS INC	31	(*)				(*)	
THE KOEGELEIN CO	32					(*)	
VALLEYDALE PACKERS INC	34	(*)	(*)			(*)	
KENTON PACKING CO	36	(*)	(*)			(*)	
TOP-LINE PACKING CO	37	(*)	(*)			(*)	
SUNNYLAND FOODS INC	43					(*)	
BROOKS COUNTY PACKING CO INC	43B					(*)	
IDAHO MEAT PACKERS	46	(*)		(*)			
DUGDALE PACKING CO	53	(*)				(*)	
SUNNYLAND PACKING CO OF ALABAMA	56	(*)					
SUNNYLAND PACKING CO OF ALABAMA	56A					(*)	
GLOVER PACKING CO	60A	(*)				(*)	
GOOCH PACKING CO INC	61	(*)	(*)		(*)	(*)	
SUNFLOWER BEEF PACKERS INC	62	(*)					
SANDUSKY DRESSED BEEF CO	63	(*)					
BARC MEAT PROCESSING PLANT	68	(*)	(*)	(*)		(*)	
AUBURN UNIVERSITY MEAT LABORATORY	71	(*)		(*)		(*)	
BROWN THOMPSON & SON	73					(*)	
GLASGOW PACKING CO	76	(*)					
DINNER BELL FOODS INC	79	(*)				(*)	
DINNER BELL FOODS INC	79A					(*)	
DINNER BELL FOODS INC	79B	(*)				(*)	
DINNER BELL FOODS INC	79C					(*)	
CUDAHY CO	81					(*)	
EDGAR PACKING CO INC	84			(*)			
MBPXL CORPORATION	86	(*)					
MBPXL CORPORATION	86D	(*)					
MBPXL CORPORATION	86E	(*)					
MBPXL CORPORATION	86H	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 2 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
UTICA VEAL CO INC	88		(*)					
KAHN'S & CO	89		(*)	(*)			(*)	
PEET PACKING CO	90						(*)	
LAREDO PACKING CO INC	91		(*)					
SUGARDALE FOODS INC	92		(*)				(*)	
LANE PACKING INC	93		(*)	(*)	(*)		(*)	
THE VAL DECKER PACKING CO	95		(*)				(*)	
CENTRAL PACKING CO INC	96		(*)	(*)				
ARMOUR & CO	100		(*)		(*)			
LIBERTY PACKING CO	101		(*)	(*)				
WILSON FOODS CORPORATION	111		(*)		(*)		(*)	
M & R PACKING CO	113	E						(*)
M & R PACKING CO	113W	E						(*)
FARMLAND FOODS INC	114		(*)					
THE MERCHANTS CO	116		(*)	(*)			(*)	
JOHN MORRELL & CO	126		(*)					
CASH BROTHERS PACKING	127		(*)	(*)	(*)	(*)	(*)	
JOHN ROTH AND SON INC	130		(*)					
FERRARA MEAT CO INC	134		(*)	(*)				
NEBRASKA BEEF PACKERS INC	135		(*)					
KLUENER PACKING CO	142		(*)	(*)				
R B RICE COMPANY OF MISSOURI INC	144		(*)				(*)	
OLLIE WELCH MEAT CO INC	153		(*)	(*)				
DALLAS CITY PACKING INC	156		(*)	(*)				
CORNLAND DRESSED BEEF CO	157		(*)					
L D CATTLE PROCESSING INCORPORATED	158		(*)					
CORNELL UNIVERSITY ANIMAL SCIENCE	165		(*)	(*)	(*)		(*)	
BROWN PACKING CO	167				(*)			
E W KNEIP INC	169		(*)					
ARMOUR & CO	177		(*)					
THE AMERICAN MEAT PACKING CORPORATION	180						(*)	
THE RATH PACKING CO	186						(*)	
CARL'S SAUSAGE CO	188						(*)	
SEATTLE PACKING CO	191						(*)	
HYNES PACKING CO	197		(*)	(*)	(*)			
UNITED PACKING CO	198		(*)		(*)			
GEORGE A HORMEL & CO	199		(*)				(*)	
GEORGE A HORMEL & CO	199A		(*)		(*)			
GEORGE A HORMEL & CO	199D						(*)	
GEORGE A HORMEL & CO	199H		(*)					
GEORGE A HORMEL & CO	199I						(*)	
GEORGE A HORMEL & CO	199N		(*)				(*)	
GEORGE A HORMEL & CO	199O						(*)	
DUBDALE PACKING CO	203		(*)					
EMGE PACKING CO INC	205		(*)				(*)	
NATIONAL BEEF PACKING CO	208A		(*)					
PENN PACKING CO	212						(*)	
E W KNEIP INC	213		(*)					
MARSHALL MEAT PRODUCTS	215		(*)					
LINCOLN MEAT CO INC	217		(*)					
YORK PACKING CO INC	220						(*)	
ITT GWALTNEY INC	221A						(*)	
DE JONG PACKING CO	223		(*)	(*)				
HYGRADE FOOD PRODUCTS CORPORATION	224		(*)				(*)	
INDEPENDENCE MEAT CO	226		(*)	(*)			(*)	
GOLD MERIT BEEF PROCESSORS INC	232		(*)	(*)				
JOHN MORRELL & CO	234		(*)					
TEXAS TECHNOLOGICAL UNIV MEAT LAB	236		(*)		(*)		(*)	
SIOUX-PAC OF IOWA INC	237		(*)					
SHREVEPORT PACKING CO INC OF KANSAS	239		(*)					
LUBBOCK BEEF PROCESSORS INC	239R		(*)					
P O AND J MEATS	240		(*)	(*)	(*)			
GREENWOOD PACKING PLANT	242		(*)				(*)	
IOWA BEEF PROCESSORS INC	245		(*)					
IOWA BEEF PROCESSORS INC	245A		(*)					
IOWA BEEF PROCESSORS INC	245B		(*)					
IOWA BEEF PROCESSORS INC	245C		(*)					
IOWA BEEF PROCESSORS INC	245D		(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
IOWA BEEF PROCESSORS INC	245E	(*)					
COLUMBIA FOODS DIV IOWA BEEF PROCESSORS INC	245G	(*)					
JOHN MCKRELL & CO	246	(*)				(*)	
MAGIC VALLEY PACKING CO	258	(*)					
GEM PACKING CO INC	259	(*)	(*)				
HYPLAINS DRESSED BEEF INC	262	(*)					
JONES DAIRY FARM	263					(*)	
FARM PAC KITCHENS INC	266	(*)	(*)		(*)		
GOLDEN VALLEY PACKING CO	271	(*)					
TOG PACKING CO INC	273	(*)					
ALPHA BETA ACME MARKETS INC	279	(*)	(*)	(*)			
MILLER BROS MEAT MARKET INC	282	(*)					
PARNETT PACKING CORPORATION	283	(*)					
FLAVORLAND INDUSTRIES INC	288	(*)					
ARBOGAST & BASTIAN INC	289					(*)	
SAN JOSE MEAT CO INC	291	(*)	(*)				
IOWA BEEF PROCESSORS INC	292A	(*)					
GUS JUENGLING AND SON INC	298	(*)	(*)				
UNION PACKING CO	305	(*)	(*)				
SERV U MEAT PACKING CO	306	(*)					
A GEMMEN & SONS INC	308	(*)	(*)			(*)	
RUDYS FARM CO	315					(*)	
ESTES PACKING CO	319	(*)	(*)			(*)	
STADLER PACKING CO INC	320	(*)				(*)	
PIERCE PACKING	322	(*)	(*)	(*)	(*)	(*)	
RUDNICK PACKING CO INC	325	(*)			(*)		
GOLDEN STATE FOODS CORPORATION	327	(*)		(*)	(*)	(*)	
C & H MEAT PACKING CORPORATION	329	(*)	(*)				
ROYAL PACKING CO	331A	(*)					
SHAPIRO PACKING CO INC	332	(*)					
GREAT WESTERN PACKING CO INC	334	(*)					
NOBLE'S MEAT CO	335	(*)	(*)				
DAIRY VALLEY MEAT INC	336	(*)	(*)				
SAM KANE BEEF PROCESSORS INC	337	(*)	(*)				
GREEN'S SAUSAGE CO	338					(*)	
MIDLAND EMPIRE PACKING CO INC	339	(*)					
SWIFT & CO	340	(*)					
PUCKETT PACKING CO	343	(*)				(*)	
GOLD-PAK MEAT CO INC	344	(*)	(*)				
ANZA MEAT PACKING CO	345	(*)					
UNION PACKING CO OF OMAHA	351	(*)					
FRESNO MEAT PACKING CO	354	(*)	(*)				
HERNANDO PACKING CO	355	(*)	(*)				
SUNSTAR FOODS	357	(*)					
CLOUGHERTY PACKING CO	360					(*)	
JAMES ALLAN AND SONS	365	(*)	(*)	(*)		(*)	
WILSON FOODS CORPORATION	374	(*)				(*)	
CROSS BROS MEAT PACKERS INC	376	(*)	(*)	(*)			
SALINAS MEAT CO	378	(*)	(*)	(*)		(*)	
EMGE PACKING CO INC	380	(*)				(*)	
SMITHFIELD PACKING CO INC	382	(*)				(*)	
SMITHFIELD PACKING CO INC	382F					(*)	
AMERICAN STORES PACKING CO	384	(*)					
FREEDMAN PACKING INC	387	(*)	(*)				
DUGDALE PACKING CO	390	(*)					
OLDHAM'S FARM SAUSAGE CO INC	392					(*)	
HUISKEN MEAT CENTER	394	(*)	(*)	(*)		(*)	
DUBUQUE PACKING CO	396	(*)	(*)	(*)		(*)	
DUBUQUE PACKING CO	396C	(*)					
DUBUQUE PACKING CO	396D	(*)					
DUBUQUE PACKING CO	396E	(*)				(*)	
DUBUQUE PACKING CO	396H	(*)					
UMNAK MEATS	399	(*)		(*)			
LOS BANOS ABATTOIR	400	(*)	(*)				
OAKRIDGE SMOKEHOUSE	401	(*)	(*)	(*)		(*)	
OWENS COUNTRY SAUSAGE INC	403					(*)	
WILLISTON PACKING CO INC	405	(*)					
GREEN BAY DRESSED BEEF INC	410	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ALPINE PACKING CO	412	(*)	(*)				
THE LUNDY PACKING CO	413					(*)	
THE LUNDY PACKING CO	413A					(*)	
MURRAY PACKING CO INC	421	(*)					
E W KNEIP INC	422	(*)					
THE COLLINS PACKING CO	423					(*)	
KENOSHA BEEF INTERNATIONAL LTD	425	(*)					
FINEBERG PACKING CO	428	(*)	(*)	(*)	(*)		
SCHNEIDER PACKING CO	439	(*)					
OMAHA DRESSED BEEF CO INC	441A	(*)	(*)				
DEL CURTO MEAT CO	445	(*)	(*)	(*)	(*)	(*)	
THE DICILLO CORPORATION	448	(*)	(*)				
ECONOMY PACKING HOUSE	451	(*)	(*)				
MORRIS RIFKIN & SONS INC	460	(*)					
PIONEER BONELESS BEEF INC	461	(*)					
LANCASTER PACKING CO	462	(*)	(*)				
LITVAK MEAT CO	465	(*)					
BECWAR PACKING CO	467	(*)	(*)			(*)	
CORNHUSKER PACKING CO	468	(*)					
SIOUXLAND BEEF PROCESSING CO	476	(*)					
ARMOUR & CO	477	(*)					
ST CROIX ABATTOIR	482	(*)	(*)	(*)	(*)	(*)	
ROBEL BEEF PACKERS INC	485	(*)					
EAST TENNESSEE PACKING CO	487	(*)				(*)	
BURING FOOD GROUP INC	488	(*)				(*)	
E W KNEIP INC	489	(*)					
FAIRBANK FARMS INC	492	(*)	(*)			(*)	
QUALITY HOUSE PROVISIONS INC	494	(*)	(*)				
BARTELL'S MEAT CO	497	(*)	(*)	(*)			
PELLA PACKING CO INC	498	(*)					
BANEY MEATS	501	(*)	(*)	(*)		(*)	
ALLENDALE BEEF CO	506	(*)					
STUTZMAN SLAUGHTERHOUSE	507	(*)	(*)	(*)	(*)	(*)	
SHEN VALLEY MEAT PACKERS INC	511	(*)				(*)	
SNIDER BROS INC	512	(*)	(*)				
CAPITOL PACKING CO	513	(*)					
DUFF ENTERPRISES INC	518	(*)		(*)			
PORK PACKERS INTERNATIONAL INC	520					(*)	
OKLAHOMA STATE UNIV MEAT LABORATORY	526	(*)	(*)	(*)		(*)	
RANCHO FEEDING CORPORATION	527	(*)	(*)			(*)	
ARMOUR & CO	528	(*)	(*)				
SMALLWOOD PACKING CO INC	529	(*)					
NORTHERN STATES BEEF INC	532	(*)					
PEPPER PACKING CO	536	(*)					
OSCAR MAYER & CO INC	537A	(*)				(*)	
OSCAR MAYER & CO INC	537B					(*)	
OSCAR MAYER & CO INC	537C					(*)	
OSCAR MAYER & CO INC	537E					(*)	
MIDWEST PACKING CO INC	538	(*)					
GOEHRING MEAT PRODUCTS CORPORATION	548	(*)	(*)	(*)		(*)	
CASCADE MEAT PACKING CO	550	(*)		(*)	(*)	(*)	
SERV-U MEAT PACKING CO	551	(*)					
BLACK HILLS PACKING CO	554	(*)					
MID SOUTH PACKERS INC	557	(*)				(*)	
D & W PACKING CO	560	(*)	(*)			(*)	
UNITED DRESSED BEEF CO INC	561	(*)	(*)			(*)	
PACKERLAND PACKING CO INC	562	(*)					
PECK MEAT PACKING CORPORATION	567	(*)					
ELMER BENDER & SON INC	569			(*)	(*)		
PERRETTA PACKING CO INC	571	(*)				(*)	
BEAVERCREEK MEAT CO INC	580	(*)				(*)	
MONARCH PACKING CO	581	(*)	(*)				
COFFEYVILLE PACKING CO INC	583	(*)					
FREDERICK & HERRUD INC	586					(*)	
DAWSON-BAKER PACKING CO INC	588	(*)					
COMO MEAT PACKING INC	593	(*)					
ELK GROVE MEAT CO	601	(*)					
SAN ANTONIO PACKING CO	602	(*)	(*)	(*)	(*)		

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 5 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
SAN ANTONIO PACKING CO	602A	(*)	(*)	(*)	(*)	(*)	
COPPER STATE PHOENIX MEAT CO	604	(*)	(*)				
WILSON FOODS CORPORATION	606					(*)	
WESTERN MEATS	608	(*)	(*)	(*)	(*)	(*)	
EASTERN OREGON MEAT CO INC	611	(*)	(*)	(*)		(*)	
PALAMERA BEEF CORP	613	(*)					
KUMMER MEAT CO INC	617	(*)	(*)	(*)		(*)	
DOSKOCIL SAUSAGE INC	623					(*)	
K'S COUNTRY MEAT PACKING CO	625	(*)		(*)		(*)	
BIG FOOT PACKING CO INC	627	(*)	(*)				
E A MILLER & SONS PACKING CO INC	628	(*)	(*)				
H H KEIM CO	630	(*)	(*)				
COQUILLE CUSTOM SLAUGHTERING	636	(*)		(*)	(*)	(*)	
CARTERET ABATTOIR INC	639		(*)	(*)	(*)	(*)	
FLANERY MEATS INC	643	(*)					
ERNST BUTCHERING SERVICE	645	(*)	(*)	(*)		(*)	
TRANSCONTINENT PACKING CO E	646						(*)
BIRD PROVISION CO	647					(*)	
SCHLUDERBERG-KURDLE CO INC	649	(*)				(*)	
JOHN MORRELL & CO	650					(*)	
WILSON FOODS CORPORATION	655	(*)	(*)	(*)	(*)		
BAUMS BOLOGNA INC	657	(*)					
QUALITY MEAT PACKING CO	661	(*)					
GLOBE PACKING CO	663	(*)					
WEBER FARMS INC	665					(*)	
CROWN PACKING CO	666					(*)	
FLANERY FOODS INC	667	(*)					
UNION PACKING CO INC	673	(*)					
S & S PACKING CO INC	674	(*)				(*)	
CAVINESS PACKING CO INC	675	(*)					
A & I PACKING CO	680			(*)			
CALDWELL PACKING CO INC	683	(*)					
CALLAWAY PACKING CO	688	(*)					
PIERCE PACKING CO	691					(*)	
KANSAS STATE UNIV ANIMAL SCIENCE & INDUSTRY	694	(*)	(*)	(*)		(*)	
GULF PACKING CO	696	(*)					
TRIOLO BROTHERS	706					(*)	
CENTRAL NEBRASKA PACKING INC E	713						(*)
DAVENPORT PACKING CO INC	716	(*)					
FARMLAND FOODS INC	717					(*)	
FARMLAND FOODS INC	717A					(*)	
FARMLAND FARMS INC	717CR					(*)	
A DARLINGTON STRODE	718					(*)	
DECKER & SON	727					(*)	
RODDE PACKING CO INC	729	(*)					
MONTGOMERY FOOD PROCESSORS INC	731	(*)	(*)			(*)	
OHIO PACKING CO	736	(*)	(*)			(*)	
PARNELLS PACKING CO	738	(*)		(*)		(*)	
THE JACOB SCHLACHTER'S SONS CO	739	(*)	(*)				
RUCHTI BEEF PACKERS	749	(*)	(*)				
SEITZ FOODS INC	756A	(*)					
THE AMERICAN MEAT PACKING CORPORATION	760					(*)	
SCHAAKE PACKING CO INC	761	(*)					
KARLER PACKING CO	767	(*)					
SHERIDAN MEAT CO INC	768	(*)	(*)	(*)		(*)	
HANFORD MEAT PACKING CO	773	(*)	(*)				
BRISTOL FOODS INC	775	(*)					
CENTRAL PACKING CO	777	(*)				(*)	
CUDAHY CO	779	(*)	(*)	(*)		(*)	
BRYAN FOODS INC	780	(*)	(*)			(*)	
DIAMOND MEAT CO INC	783	(*)					
AURORA PACKING CO INC	788	(*)					
HATFIELD PACKING CO	791					(*)	
BAUM'S MEAT PACKING INC	792	(*)	(*)				
HURON DRESSED BEEF	798	(*)					
WESTERN IOWA PORK CO	806	(*)					
AMERICAN BEEF PACKERS INC	807	(*)					
THE G EHRHART SONS INC	810	(*)	(*)				

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 6 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
S & R BEEF CO	811	*	*				
FLOYD VALLEY PACKING CO	812					*	
ROCHESTER INDEPENDENT PACKER INC	817	*					
J H ROUTH PACKING CO	818					*	
MEADOW MEATS INC	820	*	*	*	*	*	
STERLING COLORADO BEEF CO	823	*					
FOREMOST PACKING CO	824	*				*	
SUPERIOR PACKING CO INC	825			*			
LOOKOUT MOUNTAIN PACKERS INC	826	*		*			
BERGHEMS MEAT CO	830	*					
DELTA MEAT PACKING CO INC	834	*	*				
LEE-JOHNSON INC	835	*				*	
VALLEYDALE PACKERS INC	840	*				*	
FLAVORLAND INDUSTRIES INC	857D	*					
JORDAN MEAT & LIVESTOCK CO INC	858	*	*	*	*	*	
CEDAR BREAKS BEEF CO	860	*	*	*		*	
FRESNO BEEF PROCESSORS INC	862	*	*				
TENNESSEE DRESSED BEEF CO	865	*					
HARDY & CO INC	869	*	*			*	
IMPERIAL BEST MEATS	870	*	*				
UTAH STATE UNIV ANIMAL DAIRY VET SCIENCE	874	*	*	*	*	*	
PAHLER PACKING CORPORATION	880	*					
SWANTON PACKING INC	883	*					
ALCO PACKING CO INC	885	*	*	*	*	*	
WALTER H LYONS INC	886	*				*	
HAMILTON PACKING CO	891	*	*	*		*	
SAMBOL PACKING CO	892	*					
TOBIN PACKING CO INC	893					*	
VERNON CALHOUN PACKING CO	897	*	*				
SIGMAN MEAT CO INC	9018					*	
PARTY PACKING CORPORATION	902	*					
CHIAPETTI PACKING CO	916				*		
B CONSTANTINO & SONS CO	918	*					
VALLEYDALE PACKERS INC	922	*	*			*	
SCHMALTZ MEATS	926	*				*	
TARPOFF PACKING CO	931	*					
PARSONS BEEF CO INC	932	*	*				
E B MANNING AND SON	934	*					
VOLZ PACKING CO	938	*					
GENTNER PACKING CO INC	941	*					
MEILMAN FOOD INDUSTRIES INC	9468	*					
M BRIZER & CO INC	948	*					
KENNEDYS SAUSAGE CO	950					*	
BOB EVANS FARMS INC	952	*				*	
GREATER OMAHA PACKING CO INC	960	*					
POTTER SAUSAGE PRODUCT INC	961	*				*	
VIRGINIA PACKING CO INC	963	*	*	*			
T L LAY PACKING CO	967	*				*	
MONFORT PACKING CO	969	*		*			
HAWAII MEAT CO LTD	970	*					
LONGHORN MEAT PACKERS INC	976	*					
BANNER BEEF CO	985	*					
J F O'NEILL PACKING CO	987	*					
KLAKER OF KENTUCKY INC	995					*	
THE HOME PRIDE PROVISIONS INC	1029	*	*	*	*		
LANDY PACKING CO	1171	*					
A F HOYER & SON	1311	*	*				
MCCABE PACKING PLANT	1312	*	*				
BEEF NEBRASKA INC	1318	*					
SEVIER VALLEY MEATS INC	1420	*		*		*	
LA BRIER MEAT PROCESSING CO	1463	*	*	*	*	*	
ASSOCIATED MEAT PACKERS INC	1472	*	*	*		*	
OSMOND LOCKERS INC	1507	*				*	
OMAHA PCRKERS INC	1526					*	
HENDERSON MEAT PROCESSORS	1527	*				*	
CABLE LINE MEATS INC	1589	*	*	*	*	*	
KAPOSIN MEAT PACKERS	1628	*				*	
ABBYLAND PROCESSING INC	1633	*	*			*	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
KAH & CO INC	1664	(*)	(*)	(*)		(*)	
DOUBLE J MEAT CO	1669	(*)	(*)	(*)		(*)	
HOUSE OF MEATS	1685	(*)				(*)	
KLH MEATS INC	1713	(*)				(*)	
JAMES SAUSAGE CO	1718					(*)	
DE KALB COUNTRY PACKING INC	1737				(*)	(*)	
HOLSTEIN PROCESSING INC	1738	(*)				(*)	
R-BEEF OF IOWA INC	1739	(*)				(*)	
RAWHIDE RANCH BAVARIAN MEAT	1741	(*)	(*)	(*)		(*)	
ROBERT L RUNTZ INC	1750	(*)	(*)				
B & B MEAT PACKING	1765	(*)				(*)	
LITTLE RIVER PACKING	1771	(*)	(*)	(*)	(*)	(*)	
PINE CITY FROZEN FOODS INC	1772	(*)	(*)	(*)	(*)	(*)	
DES MOINES MEAT PACKING CORPORATION	1784	(*)				(*)	
GOLDEN WEST MEAT CO INC E	1796						(*)
B C DRESSED BEEF INC	1803	(*)					
IOWA PORK INDUSTRIES INC	1811					(*)	
LEE EDSON INC	1816	(*)	(*)				
ROCK DELL MEATS & PROCESSING	1854	(*)		(*)		(*)	
MINDEN BEEF CO	1914M	(*)					
SHOMIN MEAT PROCESSING	2018	(*)	(*)	(*)		(*)	
CROCKETT PACKING CO	2033	(*)	(*)				
IOWA STATE UNIVERSITY MEAT LABORATORY	2049	(*)	(*)	(*)		(*)	
MR BEEF PACKING	2061	(*)	(*)			(*)	
ABBEY PACKING CO	2080	(*)	(*)			(*)	
MIDWAY MEATS DIV COUNTRY PRIDE INC	2081		(*)			(*)	
BRAUNFELS MEATS INC	2083	(*)	(*)	(*)		(*)	
COOM SAUSAGE CO OF KENTUCKY INC	2094					(*)	
ALEWELS INC	2101	(*)	(*)	(*)	(*)	(*)	
GOODMARK FOODS INC	2103					(*)	
HONEY BEEF HOUSE	2104	(*)					
P & H PACKING CO INC	2211	(*)	(*)				
HANDY PACKING CO INC	2215	(*)	(*)	(*)	(*)	(*)	
YOAKUM PACKING CO	2216	(*)				(*)	
CLARK PACKING CO	2219	(*)	(*)	(*)	(*)	(*)	
BURLISON PACKING CO	2224	(*)					
PACE PACKING CO	2228	(*)	(*)			(*)	
RIDLEY PACKING CO	2229	(*)	(*)				
SOUTH TEXAS PACKERS INC	2230	(*)					
LEONARD & HARRAL PACKING CO	2239	(*)	(*)	(*)	(*)		
HARRIS PACKING CO	2243	(*)		(*)		(*)	
BRYAN SAUSAGE CO INC	2249					(*)	
SS CHAROLAIS MEATS	2252	(*)					
LOVELAND PACKING CO INC	2259	(*)				(*)	
G & C PACKING CO	2262	(*)	(*)				
RIDLEY PACKING CO	2265	(*)	(*)			(*)	
L A FREY & SONS INC	2266A	(*)				(*)	
WRIGHT MEAT PACKING CO INC	2269	(*)	(*)			(*)	
CENTENO MEAT COMMISSARY	2271	(*)					
LAMESA MEAT CO	2272	(*)		(*)		(*)	
AMARILLO PACKING CO	2273	(*)					
HUSBAND BROTHERS PACKING CO	2284	(*)	(*)				
BEN GRANTHAM MEAT PACKERS	2290	(*)	(*)			(*)	
DANKWORTH PACKING CO INC	2296	(*)				(*)	
BARKER ENTERPRISES INC	2315	(*)	(*)	(*)		(*)	
FRUITLAND PACKING CO INC	2316	(*)	(*)		(*)	(*)	
APACHE MEAT PROCESSING CO INC	2322	(*)	(*)			(*)	
BERRY PACKING INC	2325	(*)				(*)	
COMANCHE MEATS INC	2329	(*)	(*)			(*)	
MINCO MEAT CO	2330	(*)	(*)	(*)	(*)	(*)	
CORNETT PACKING CO	2333	(*)	(*)	(*)		(*)	
ELK CITY PACKING CO	2339	(*)	(*)	(*)	(*)	(*)	
FLYING SPUR MEAT CO	2344	(*)				(*)	
LARON MEAT SERVICE	2356	(*)				(*)	
AMANA SOCIETY	2357	(*)					
HM J RAHE & SONS INC	2358	(*)		(*)	(*)	(*)	
RAWLINS COUNTY PROCESSING INC	2366	(*)				(*)	
THIES PACKING CO INC	2367	(*)				(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 8 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GROTE MEAT CO	2369	*	*	*		*	
CANADIAN VALLEY MEAT CO	2370	*	*				
CLAYTON PACKING CO	2373			*			
SMIT & SON PACKING CO	2376	*				*	
SPENCER FOODS INC	2379	*					
ERNIE'S SUPERMARKETS CORP	2380	*	*			*	
PARTIN SAUSAGE CO	2385					*	
MARSHALL PACKING CO INC	2386	*				*	
CLINTON PACKING CO	2387					*	
MOTT PACKING CO	2394	*	*	*	*	*	
UNITED MEAT CO INC	2396	*					
PONY EXPRESS RANCH	2398	*	*	*		*	
P H CUSTOM MEATS INC	2401	*	*	*	*	*	
NACKER PACKING CO INC	2425	*					
HILLSHIRE FARM CO	2435					*	
RANCHLAND PACK INC	2439	*	*	*		*	
STRAUSS BROTHERS PACKING CO INC	2444			*			
JOHN R DAILY INC	2450	*	*			*	
CIMPL PACKING CO	2460	*					
PIPESTONE AREA VOCATIONAL TECHNICAL INSTITUTE	2462	*		*		*	
LINK BROS INC	2472	*	*	*	*	*	
WENNING PACKING CO INC	2533	*					
NEW GLARUS FOODS INC	2585	*	*	*		*	
WEYHAUPT BROS PACKING CO	2594	*				*	
BARTLOW BROS INC	2595	*				*	
TEETERS PACKING CO	2598					*	
DUQUOIN PACKING CO	2599	*				*	
MCDONALD MEATS	2603	*	*			*	
FOUTCH PACKING CO	2604	*				*	
FARMERS MEAT PACKING CO	2611	*				*	
J W TREUTH & SON INC	2612	*					
MANASSAS ICE & FUEL CO INC	2621A	*	*			*	
LOOMIS PACKING CO	2636	*				*	
CURTIS PACKING CO	2642	*	*	*		*	
H P BEALE & SONS INC	2682					*	
FARMBOY MEATS	2698	*				*	
YODERS INCORPORATED	2699	*		*		*	
R W HANLON	2728	*	*	*		*	
V K MITMAN MEATS	2739	*	*			*	
ROD-CLIFF FARMS MEATS	2751	*	*	*	*	*	
WAGNER PROVISIONS CO INC	2770	*	*			*	
OVERLOCK MEAT PROCESSING INC	2790	*					
DOTTI-LOU MEATS	2794	*	*	*		*	
STOEVEN BROTHERS	2800	*	*	*			
TOBLER'S MEATS	2814	*	*	*	*	*	
BLUE MOUNTAIN MEATS	2825	*	*	*		*	
LEWIS & MCDERMOTT	2847	*					
BASIN PACKING CO	2850	*	*	*		*	
VISTA MEAT PACKING CO INC	2854	*	*	*			
GRANITE MEAT CO	2856	*	*				
TOP OF INDIANA BEEF CO INC	2906	*					
ARMBRUST MEATS	2912	*	*			*	
MADISON FOOD INC	2923					*	
MARYVILLE PACKING CO	2927	*	*	*	*	*	
RUNYON FROZEN FOOD SERVICE	2932	*				*	
STAR PACKING CO INC	2934	*	*	*			
WINTER'S MEAT PROCESSING	2936	*	*	*	*	*	
WOODS LOCKER & ABATTOIR INC	2938	*		*	*	*	
YONTZ PACKING CO	2939	*				*	
WEST PLAINS PACKING CO	2944	*				*	
WEST SLAUGHTER HOUSE	2945	*				*	
P & H MEATS INC	2946	*	*	*	*	*	
PEMISCOT PACKING CO	2948	*				*	
BUTT'S PACKING	2950	*	*	*		*	
CROUCH'S LOCKER & PROCESSING	2951	*	*	*	*	*	
NADLER'S MEATS INC	2956	*	*	*	*	*	
MAXWELL'S LOCKERS	2959	*				*	
WELLINGTON QUALITY MEATS INC	2960	*	*	*		*	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 9 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MAC DYE PACKING CO	2962	(*)	(*)		(*)	(*)	
BOLIVAR LOCKER PLANT	2964	(*)	(*)	(*)	(*)	(*)	
FRANCIS PACKING CO	2965	(*)					
SWISS PROCESSING PLANT	2969	(*)	(*)	(*)	(*)	(*)	
SLAGLE MEAT MARKET	2970	(*)	(*)	(*)	(*)	(*)	
MURPHY SLAUGHTERHOUSE	2972	(*)				(*)	
SINGER LOCKER SERVICE	2975	(*)	(*)	(*)		(*)	
DELALOYE & SONS MEAT PACKING INC	2977	(*)			(*)	(*)	
RINEHART'S MEAT PROCESSING INC	2978	(*)	(*)	(*)		(*)	
MIRABILE MEAT PROCESS	2982	(*)					
DAVIS MEAT PROCESSING	2984	(*)	(*)	(*)	(*)	(*)	
DIGGS PACKING CO	2985	(*)				(*)	
OZARK PACKING CO	2986A	(*)	(*)	(*)	(*)	(*)	
HIGHLANDVILLE PACKING CO	2987	(*)	(*)	(*)	(*)	(*)	
GLEN'S CUSTOM BUTCHERING	2989	(*)	(*)	(*)	(*)	(*)	
FOUR QUARTER SLAUGHTERING	2990	(*)		(*)		(*)	
HERROD PACKING CO INC	2991	(*)					
HOLDEN LOCKER PLANT	2993	(*)	(*)	(*)	(*)	(*)	
DIAMOND MEAT CO INC	2994	(*)	(*)	(*)		(*)	
COUNTRY BUTCHER SHOP	2995	(*)		(*)	(*)	(*)	
COUNTRY BUTCHER SHOP	2995A	(*)	(*)	(*)	(*)	(*)	
COUNTRY BUTCHER SHOP	2995B	(*)	(*)	(*)	(*)	(*)	
MILEY & LAWSON MEAT PROCESSING	2997	(*)	(*)			(*)	
MISSOURI STATE PENITENTIARY FOR MEN	2998	(*)				(*)	
GEHMAN'S QUALITY MEATS	4014	(*)	(*)	(*)	(*)	(*)	
ED'S CUSTOM MEATS	4021	(*)	(*)	(*)		(*)	
DIETRICH'S COUNTRY MEATS	4022	(*)	(*)	(*)		(*)	
HOFFER'S LIGONIER VALLEY PACKING	4025	(*)	(*)	(*)	(*)	(*)	
HOST ACRES FARMS QUALITY MEATS	4034	(*)	(*)	(*)		(*)	
WAYNE H HOFFMAN & SON	4040	(*)	(*)	(*)		(*)	
CLARENCE W CRAMER	4043	(*)	(*)			(*)	
STAWICKI PROVISION	4045	(*)	(*)	(*)	(*)		
FARMLAND MEATS	4049	(*)	(*)	(*)		(*)	
LEE PACKING CO	4055	(*)				(*)	
THE DEVEREUX FOUNDATION FARM	4065	(*)	(*)	(*)		(*)	
BOWMAN'S MEAT PROCESSING INC	4073	(*)	(*)			(*)	
C & C PACKING CO INC E	4094						(*)
BIERLY'S MEAT MARKET	4095	(*)		(*)		(*)	
MIDVALE PACKING CO	4133	(*)	(*)				
TALONE PACKING CO	4152	(*)	(*)				
UPLAND PACKING CO	4165	(*)	(*)				
GREEN'S QUALITY MEAT SERVICE	4202	(*)	(*)	(*)	(*)	(*)	
TINY'S MEAT	4206	(*)		(*)		(*)	
VALLEY MEATS INC	4213	(*)				(*)	
HAWARDEN OF IOWA INC	4216	(*)					
SPRINGFIELD QUALITY BEEF INC	4220	(*)	(*)				
LIBERTY PACKING CORP E	4241						(*)
PULVERMACHER INC MEAT PROCESSING	4244	(*)	(*)	(*)		(*)	
WEBSTER CITY CUSTOM MEATS INC	4246	(*)		(*)		(*)	
JOE PAGLIUSO & BROS INC	4253	(*)	(*)				
SCHREIBER SON'S MARKET INC	4254	(*)					
POOK'S WHOLESALE MEATS INC	4263	(*)	(*)		(*)		
STATE UNIV OF NEW YORK AGRI & TECH COLLEGE	4266	(*)		(*)	(*)	(*)	
JIM SIMON'S MEATS	4285	(*)	(*)		(*)		
DEL SONNO'S CUSTOM MEATS INC	4330	(*)	(*)			(*)	
ALPHONSO CUOMO	4342	(*)	(*)			(*)	
S & J SLAUGHTERHOUSE	4346	(*)	(*)				
F K & SON INC	4353	(*)					
KLINCK BROS INC	4354	(*)					
DONALD H CLEY	4355	(*)	(*)			(*)	
BERNACKI BROS	4358	(*)	(*)				
SMITH PACKING CO	4371	(*)					
CARLSON BROTHERS MEATS INC	4372	(*)	(*)				
J M BOSTWICK AND SONS INC	4373	(*)					
ROBERT & RONALD VAN CAMP	4374	(*)	(*)	(*)			
SIPPERLY BROS INC	4388	(*)					
NESSLE BROTHERS MEATS	4389	(*)	(*)				
WALLKILL CORRECTIONAL FACILITY	4416	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
KARL'S SLAUGHTERHOUSE	4418	(*)				(*)	(*)
FIORENTINO BROS MEAT PROCESSORS	4419	(*)					
L & C MEATS CO	4421	(*)					
LEWIS A IVES	4422	(*)			(*)		
HERBERT M ZIFF INC	4424	(*)	(*)				
SHAPPEE'S MEAT PLANT	4426	(*)	(*)		(*)		
P BRENNAN INC	4429	(*)				(*)	
WILLIAM G MEAT PACKING CO	4431	(*)	(*)		(*)		
GREEN HAVEN CORRECTIONAL FACILITY	4463	(*)					
FRANK BROTHERS FARM INC	4464	(*)				(*)	(*)
NOWER CUSTOM SLAUGHTERING	4468	(*)	(*)				
KAMERY'S WHOLESALE MEATS	4470	(*)	(*)	(*)	(*)	(*)	
FREDERICK BOND	4471	(*)	(*)				
PACKER'S WHOLESALE MEATS	4473	(*)					
GREENVILLE PACKING CORPORATION	4474	(*)					
LUTZ PACKERS INC	4475	(*)	(*)	(*)		(*)	
BRICCETTI'S BEDFORD MARKET	4476	(*)			(*)		
JOSEF MEILLER'S SLAUGHTERHOUSE INC	4477	(*)					(*)
CROGHAN MEAT MARKET INC	4480	(*)					
F J LEWIS	4482	(*)	(*)	(*)			
HOKAN'S SLAUGHTERHOUSE	4483	(*)	(*)				
STEINER PACKING CO INC	4486	(*)	(*)	(*)	(*)	(*)	
VICTORIA POLYNIAK	4488	(*)	(*)				(*)
STEIGER'S SLAUGHTER HOUSE	4489	(*)	(*)	(*)			(*)
ORLEANS MEAT PROCESSING CO	4490	(*)	(*)	(*)	(*)	(*)	
PAT ROBUSTON INC	4491	(*)					
DILLION'S SLAUGHTER HOUSE	4492	(*)					
TRI-TOWN CORPORATION	4499	(*)	(*)	(*)	(*)		
RADEL'S MEAT MARKET	4517	(*)					(*)
ROTTERDAM PACKING CO INC	4526						(*)
CUDLIN'S MARKET	4528	(*)	(*)	(*)			
JOHN BRITT	4530	(*)					
STATE UNIV OF NEW YORK AT ALFRED AGRI & TECH	4531	(*)	(*)	(*)			
OWASCO MEAT CO	4532	(*)					(*)
MAPLE GROVE FARMS	4533	(*)	(*)	(*)			(*)
GORHAM PACKING CORPORATION	4534	(*)	(*)				
TEAR'S MARKET	4535	(*)	(*)	(*)	(*)	(*)	(*)
SOUTH DAYTON MEAT MARKET	4540	(*)	(*)	(*)			(*)
MANWARING'S CUSTOM PROCESSING	4541	(*)	(*)			(*)	(*)
LAZY GATE FARMS	4542	(*)	(*)				
THE HILLSDALE PACKING CO INC	4546	(*)					
GREENBRIER FOODS INC	4593	(*)			(*)		(*)
EMERICK'S MEAT & PACKING	4607	(*)	(*)				(*)
MULLEN'S SLAUGHTERHOUSE	4623	(*)	(*)				
FORD BROS WHOLESALE MEATS INC	4625	(*)	(*)				
WARSAW PACKING CO	4638	(*)					
RITE WAY MEAT PROCESSING INC	4662	(*)	(*)	(*)			(*)
STRANDBURG'S WHOLESALE MEATS	4666	(*)	(*)			(*)	(*)
SUFFOLK COUNTY FARM COOP	4675	(*)					(*)
KENNEDY MEAT MARKET	4677	(*)	(*)				
HOBART'S REFRIGERATED SERVICE	4679	(*)	(*)		(*)		
POTTER PACKING CO INC	4689	(*)			(*)		(*)
LILLIES WHOLESALE MEATS	4697	(*)	(*)				
FRANK DEMARTINO & SON & SONS	4707	(*)			(*)		
SOUTHINGTON PACKING CO	4708	(*)	(*)	(*)	(*)	(*)	(*)
DAN BROOK PACKING CO	4709	(*)	(*)			(*)	(*)
MAURICE'S COUNTRY MEAT MARKET	4714	(*)	(*)	(*)	(*)		
LECCE PACKING CO	4715	(*)	(*)	(*)	(*)	(*)	
E & J FARMS	4716	(*)	(*)	(*)	(*)	(*)	
UNIV OF CONNECTICUT MEAT LABORATORY	4717	(*)	(*)	(*)			(*)
DON J LYNCH PACKING HOUSE	4727	(*)	(*)	(*)	(*)	(*)	
MATTICE'S SLAUGHTERHOUSE	4728	(*)	(*)	(*)	(*)		
ESSEX AGRICULTURAL & TECHNICAL INSTITUTE	4751	(*)	(*)	(*)			(*)
WARRINGTON FARM	4752	(*)	(*)				(*)
K & R MEAT SHOP	4763	(*)					(*)
HARSTELLER FARM MEATS	4776	(*)	(*)				
ROBERT E RILEY	4788	(*)	(*)				
RUSSELL MEAT PACKING INC	4789	(*)	(*)				(*)

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ROSE VALLEY FARM	4791	(*)	(*)	(*)		(*)	
CLOVIS PACKING CO INC	4802	(*)	(*)	(*)	(*)	(*)	
JOEY PAUL DBA MOUNTAIN PROCESSORS INC	4804	(*)	(*)	(*)		(*)	
EASTERN OKLAHOMA STATE COLLEGE	4608	(*)		(*)		(*)	
GREAT WESTERN MEAT CO E	4816						(*)
CATTLEMAN'S WHOLESALE BEEF & PORK OUTLET	4819	(*)	(*)			(*)	
SPANISH FORK PACKING	4852	(*)					
CALIFORNIA STATE POLY SAN LUIS OBISPO	4869	(*)		(*)		(*)	
CALIFORNIA STATE POLYTECHNIC UNIV POMONA	4902	(*)	(*)	(*)		(*)	
KLAPP'S COUNTRY MARKET & PACKING HOUSE	4903	(*)	(*)	(*)	(*)	(*)	
RICKERT MEAT CO	4982	(*)	(*)	(*)		(*)	
SELECTED MEAT PACKERS INC	5109	(*)				(*)	
DOUBLE A MEAT PACKING CO	5162	(*)	(*)	(*)	(*)	(*)	
ANTHONY PARRILLO INC	5193	(*)	(*)	(*)	(*)	(*)	
RALPH PACKING CO INC	5228	(*)	(*)				
O'BRIEN'S MEATS	5271	(*)		(*)		(*)	
JOSEPH LATELLA & SONS	5297			(*)	(*)	(*)	
JOHNSTON DRESSED BEEF & VEAL CO INC	5300	(*)	(*)	(*)	(*)		
GEO WALDENMAIER & SONS	5327				(*)		
A ARENA & SONS INC	5346	(*)			(*)		
LAKEVIEW PACKING CO	5412	(*)	(*)	(*)		(*)	
S MARESCA & SONS INC	5416	(*)			(*)		
SALEM PACKING CO	5425	(*)	(*)	(*)		(*)	
BRINGHURST BROS INC	5426	(*)	(*)	(*)	(*)	(*)	
VINELAND DRESSED BEEF INC	5430	(*)	(*)	(*)			
WHIPPANY MEAT PACKING INC	5437	(*)				(*)	
KLEEMEYER & MERKEL INC	5439	(*)					
MUENCH MEATS & SONS CO	5442	(*)					
SIEGEL BROS INC	5457	(*)	(*)	(*)			
BUTTER LANE FARM	5462	(*)	(*)	(*)		(*)	
MARLBORO PSYCHIATRIC HOSPITAL	5464	(*)				(*)	
PERSON'S PROCESSING	5469	(*)			(*)		(*)
RUSSO PACKING CO	5471	(*)	(*)	(*)	(*)		
RUSSO PACKING CO	5471A	(*)					
WINCHESTER PACKING CO INC	5500	(*)				(*)	
MORELAND & MAY PROCESSING PLANT	5507	(*)	(*)			(*)	
AMEND PACKING CO	5509	(*)					
GIBBON PACKING CO	5511	(*)					
HERB'S LOCKER & SLAUGHTER INC	5514	(*)					
CENTRAL FOODS INC	5519	(*)	(*)			(*)	
HEWLETT WHOLESALE MEATS	5524	(*)	(*)				
CASE MEAT PROCESSING	5530	(*)	(*)			(*)	
SIOUX-PREME PACKING CO	5537					(*)	
JACK POLEN PACKING CO	5548	(*)					
IOLA MEAT PROCESSORS INC	5555	(*)					
THE FANESTIL PACKING CO INC	5562	(*)					
HAVILAND BROS PACKING CO INC	5565	(*)	(*)	(*)		(*)	
TAMA MEAT PACKING CORPORATION	5569	(*)					
STANKO PACKING CO	5572	(*)					
BUTCHERS INC	5575	(*)	(*)	(*)	(*)	(*)	
GRABILL COUNTRY MEATS #1 INC	5593	(*)		(*)	(*)		
WIMMER'S MEAT PRODUCTS INC	5601	(*)	(*)	(*)	(*)	(*)	
THE MEAT CENTER INC	5604	(*)	(*)	(*)		(*)	
JACK'S PROCESSING	5608	(*)		(*)		(*)	
JOHNSON'S FROZEN FOODS	5612	(*)	(*)	(*)	(*)	(*)	
JIMMY DEAN MEAT CO INC	5614					(*)	
DE LUCA PACKING CO INC	5621	(*)	(*)	(*)		(*)	
ALBION LOCKERS	5622	(*)		(*)	(*)	(*)	
ALEXANDRIA PACKING CO	5623	(*)	(*)	(*)		(*)	
GOERTZEN'S PROCESSING	5630	(*)	(*)	(*)	(*)	(*)	
CARLSON'S INC	5632	(*)	(*)	(*)	(*)	(*)	
OSAKIS MEAT & PROCESSING	5633	(*)	(*)	(*)	(*)	(*)	
DOTY PACKING CO INC	5634	(*)		(*)		(*)	
GRUNKEMEYER MEATS	5635	(*)				(*)	
OTTE PACKING	5638	(*)	(*)	(*)		(*)	
E & E MEATS PROCESSING	5639	(*)		(*)		(*)	
F & S SAUSAGE CO INC	5640	(*)		(*)	(*)	(*)	
JOHNSON STEAK MASTER	5641	(*)		(*)	(*)	(*)	

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NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
BLAINE PACKING CO	5647	(*)		(*)		(*)	
TATUM'S PROCESSING PLANT	5649	(*)	(*)	(*)		(*)	
CUSTOM PACK INC	5650	(*)	(*)	(*)			
ANDERSON'S LOCKER & PACKING CO INC	5651	(*)				(*)	
CITY MEAT MARKET INC	5652	(*)	(*)	(*)		(*)	
UERLING LOCKER	5653	(*)				(*)	
BELINDE'S LOCKER PLANT	5654	(*)		(*)		(*)	
EPLER MERCANTILE CO	5655	(*)		(*)	(*)	(*)	
KIMBALL LOCKER PLANT	5656	(*)		(*)		(*)	
TRAUTMAN'S MEAT CENTER INC	5657	(*)		(*)	(*)	(*)	
UNIV OF NEBRASKA LOEFFEL MEAT LABORATORY	5658	(*)		(*)		(*)	
BUTLER'S BEEF ACRES	5660	(*)	(*)	(*)	(*)	(*)	
ROMAN PACKING CO INC	5662	(*)	(*)	(*)	(*)	(*)	
PETERSBURG LOCKER INC	5668	(*)	(*)	(*)		(*)	
YOST PACK INC	5672	(*)	(*)	(*)	(*)	(*)	
HOLLSTEIN PACKING CO	5673	(*)	(*)	(*)		(*)	
KREIMER'S STORE	5681	(*)	(*)	(*)		(*)	
TECUMSEH LOCKER	5682	(*)	(*)	(*)	(*)	(*)	
VALENTINE LOCKER	5683	(*)	(*)	(*)		(*)	
WAUSA LOCKERS	5686	(*)	(*)	(*)		(*)	
IOWA PORK INDUSTRIES INC	5689	(*)				(*)	
ZIMMERMAN MEATS	5700	(*)	(*)	(*)	(*)	(*)	
HAVLIK'S LOCKER PLANT	5729	(*)		(*)		(*)	
BANFIELD OF TULSA INC	5763	(*)	(*)	(*)		(*)	
SHERMAN CUSTOM SLAUGHTERING	5764	(*)				(*)	
ALEWEL'S INC	5766	(*)		(*)		(*)	
LEROY'S SLAUGHTER	5767	(*)		(*)		(*)	
V-B MEATS INC	5769	(*)	(*)	(*)	(*)	(*)	
PERRYVILLE PACKING CO	5770	(*)	(*)	(*)	(*)	(*)	
HASTY PACKING CO	5772	(*)	(*)	(*)		(*)	
KAHRE & SONS SLAUGHTERING & PROCESSING	5775	(*)	(*)	(*)	(*)	(*)	
FRIGID FOOD SERVICE	5776	(*)		(*)	(*)	(*)	
UNIVERSITY OF MISSOURI FS & N DEPT	5777	(*)		(*)		(*)	
SPRAGUE SLAUGHTER HOUSE	5779	(*)	(*)	(*)		(*)	
EDENS DUTCH PACKING CO	5781	(*)	(*)	(*)	(*)	(*)	
THE DEEP-FREEZE INC	5782	(*)		(*)	(*)	(*)	
LUMLEY LOCKER	5788	(*)		(*)		(*)	
SEATON MEAT CO	5791	(*)		(*)	(*)	(*)	
PARIS LOCKER & ABATTOIR	5795	(*)		(*)			
DALE'S PACKING CO	5797	(*)	(*)				
NORVS MEAT PRODUCTS	5798	(*)	(*)	(*)	(*)	(*)	
MCGEE PACKING CO	5801	(*)		(*)		(*)	
ST LOUIS MEATS INC	5807	(*)				(*)	
WARSAW MEAT PROCESSING CO INC	5812	(*)		(*)	(*)	(*)	
SCHLESWIG SAUSAGE INC	5813	(*)				(*)	
NORBORNE LOCKER SERVICE	5820	(*)	(*)			(*)	
NORBORNE LOCKER SERVICE	5820A	(*)	(*)			(*)	
MOTT MEAT CO INC	5821	(*)				(*)	
SIKESTON SLAUGHTERHOUSE	5824	(*)	(*)	(*)	(*)		
HUGHESVILLE SLAUGHTER PLANT	5826	(*)	(*)	(*)	(*)	(*)	
POOS BROS INC SLAUGHTER HOUSE	5827	(*)	(*)	(*)		(*)	
LEET'S LOCKER PLANT	5835	(*)				(*)	
COUNTY CUSTOM PACKING CO INC	5838	(*)				(*)	
GIBSON PACKING CO	5843	(*)	(*)			(*)	
SHANNON-DAKOTA FOODS INC	5857	(*)				(*)	
NIBLOCK PORK PRODUCTS	5900					(*)	
JOSEPH CHIU	5910	(*)	(*)				
DE VRIES MEAT PACKING	5911	(*)	(*)	(*)	(*)	(*)	
JOHN MARCACCI	5913	(*)	(*)	(*)	(*)	(*)	
BRISTOL BEEF	5998	(*)	(*)	(*)	(*)	(*)	
ARIZONA BEEF CO	6001	(*)	(*)				
PARKE MEAT CO	6003	(*)	(*)				
UNIVERSITY OF NEVADA ANIMAL SCIENCE DIVISION	6004	(*)	(*)	(*)		(*)	
HOHENER MEAT CO INC	6011	(*)	(*)			(*)	
UNIVERSITY OF CALIF-DEPT OF ANIMAL SCIENCE	6012	(*)	(*)	(*)		(*)	
SONOMA VALLEY MEAT CO	6016	(*)	(*)	(*)	(*)	(*)	
RIISE MEAT PACKING CO	6017	(*)	(*)	(*)	(*)	(*)	
MOUNT VERNON MEAT CO INC	6039	(*)	(*)				

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 13 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
PASCO MEAT PACKERS INC	6040	(*)	(*)			(*)	
WEBER INC	6041	(*)	(*)	(*)	(*)	(*)	
MCRAE PACK INC	6042	(*)	(*)	(*)		(*)	
FLORENCE PACKING CO	E 6043						(*)
DAVIS MEAT CO	6044	(*)	(*)			(*)	
AVILA MEAT CO	6046	(*)	(*)				
SATICOY MEAT PACKING CO	6055	(*)	(*)	(*)		(*)	
SCHENK PACKING CO	6056	(*)	(*)	(*)		(*)	
TULARE MEAT CO	6063	(*)	(*)				
REDWOOD MEAT CO	6066	(*)	(*)	(*)	(*)	(*)	
GRANDVIEW PACKING CO	6083	(*)	(*)	(*)		(*)	
ARNOPOLE MEAT CO	6084	(*)	(*)			(*)	
STILSON MEATS	6094	(*)	(*)				
G & G MEATS	6099	(*)	(*)				
KRATZIG MEAT CO	6110	(*)	(*)	(*)	(*)	(*)	
ARNOLD MEAT CO	6113	(*)	(*)	(*)		(*)	
MID-CAVE MEAT PACKING CO	6114	(*)	(*)			(*)	
CEDAR PACKING CO	6118	(*)	(*)	(*)	(*)	(*)	
T P PACKING CO	6173	(*)	(*)				
LEWIS MEATS	6175	(*)	(*)	(*)		(*)	
R & R LOCKER PLANT	6228	(*)		(*)		(*)	
TRI MILLER PACK	6230	(*)	(*)	(*)		(*)	
THE MEAT HOUSE	6237	(*)	(*)	(*)	(*)	(*)	
EVANS MEAT CO	6243	(*)					
VALLEY MEAT CO	6269	(*)	(*)	(*)	(*)	(*)	
MC CARY MEATS	6270	(*)	(*)	(*)	(*)	(*)	
STILLWATER PACKING CO	6271	(*)		(*)		(*)	
BIG SKY MARKET	6277	(*)		(*)		(*)	
J T TRELEGAN CO	6343					(*)	
E L BLOOD & SON	6354	(*)	(*)	(*)	(*)	(*)	
BRITO'S MEATS & PROVISIONS	6359	(*)	(*)	(*)	(*)	(*)	
ISRAEL SHEINHIT PACKING CO	6369	(*)	(*)	(*)	(*)		
JOHN SZALA	6376	(*)	(*)				
GOLDEN DALE RANCH MEAT CO	6411	(*)	(*)	(*)		(*)	
RICE MEAT PACKING CO	6413	(*)	(*)	(*)	(*)	(*)	
GALBREATH PACKING CO	6420	(*)	(*)	(*)	(*)	(*)	
WHOLESALE MEATS	6421	(*)	(*)	(*)	(*)		
WALT'S CUSTOM SLAUGHTERING INC #2	6423	(*)	(*)			(*)	
FOSS BROTHERS	6434	(*)	(*)	(*)	(*)	(*)	
WILDER PACKING PLANT	6445	(*)	(*)	(*)	(*)	(*)	
BIG COUNTRY MEAT	6446	(*)	(*)	(*)	(*)	(*)	
CREAGHE PACKING CO	6450	(*)		(*)	(*)	(*)	
WINDSOR PACKING CO	6452	(*)	(*)	(*)	(*)	(*)	
RIFLE PACKING PLANT	6453	(*)	(*)	(*)			
ELIZABETH LOCKER PLANT INC	6454	(*)	(*)	(*)	(*)	(*)	
SCANGA MEAT CO	6460	(*)	(*)	(*)		(*)	
T W PACKING	6462	(*)	(*)	(*)	(*)	(*)	
BRUSH PACKING PLANT	6463	(*)	(*)	(*)		(*)	
NELSON'S DRESSED MEATS	6470	(*)	(*)	(*)		(*)	
YORK'S MEAT	6482	(*)	(*)	(*)	(*)	(*)	
MORI WHOLESALE MEATS	6485	(*)	(*)	(*)	(*)	(*)	
K PACK MEAT CO	6487	(*)	(*)	(*)	(*)	(*)	
CARSON VALLEY MEAT CO	6491	(*)	(*)	(*)	(*)	(*)	
HOTCHKISS ICE & COLD STORAGE CO	6493	(*)	(*)	(*)	(*)	(*)	
QUALITY PACKING INC	6494	(*)	(*)	(*)	(*)	(*)	
HIGH QUALITY PACK	6495	(*)				(*)	
GREEN HILL INC	6513	(*)				(*)	
ELM HILL MEATS INC	6515	(*)				(*)	
FLORIDA VEAL PROCESSORS INC	6518	(*)	(*)				
GUARD HILL MEATS INC	6526	(*)	(*)	(*)	(*)	(*)	
MORRISTOWN PROVISION CO	6535	(*)	(*)			(*)	
GUNNOE SAUSAGE CO INC	6541					(*)	
ODOM SAUSAGE CO INC	6544					(*)	
K-M CO	6545	(*)					
SUFFOLK PACKING CO INC	6546	(*)	(*)	(*)			
MARTINS ABATTOIR & WHOLESALE MEATS	6547	(*)	(*)		(*)	(*)	
DAVIS COUNTRY SAUSAGE	6549	(*)	(*)				
NORMAN'S PACKING PLANT	6552	(*)	(*)			(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
THE WELLS CO INC	6554	(*)	(*)	(*)	(*)	(*)	
FAYETTE PACKING CO	6555	(*)	(*)	(*)	(*)	(*)	
GILBERT'S SLAUGHTER HOUSE	6556	(*)	(*)		(*)	(*)	
PENN HAVEN MEATS INC	6559	(*)				(*)	
HAYES PROCESSING PLANT	6560	(*)				(*)	
LINDSEY'S SLAUGHTER HOUSE	6561		(*)			(*)	
SAVANNAH PROCESSING & LOCKER	6562	(*)				(*)	
BOLIVAR PACKING CO	6563	(*)	(*)			(*)	
BROWN'S MEAT PLANT	6570	(*)				(*)	
BALTZ BROS PACKING CO INC	6573	(*)				(*)	
EDWARDS SAUSAGE CO INC	6579					(*)	
GLASGOW MARKET	6580	(*)		(*)		(*)	
M & G SLAUGHTER HOUSE	6582			(*)		(*)	
ROD'S PROCESSING CO	6584	(*)				(*)	
ELMORE COUNTY QUICK FREEZE	6585	(*)				(*)	
BROWN PACKING CO INC	6587	(*)	(*)				
RANDOLPH PACKING CO INC	6590	(*)	(*)	(*)	(*)	(*)	
LEDFORDS LIVESTOCK FARM SLAUGHTER PLANT	6591A	(*)	(*)	(*)		(*)	
WHITE PACKING CO	6595	(*)	(*)			(*)	
GROGAN MEAT CO	6598	(*)				(*)	
GREENBACK FOOD SPECIALTY	6601	(*)	(*)	(*)		(*)	
JAKES BROS SAUSAGE CO	6610					(*)	
MEEKS SLAUGHTER HOUSE	6612	(*)		(*)	(*)	(*)	
TENNESSEE VALLEY PACKING CO	6613					(*)	
PARKS HARRIS CO	6618		(*)	(*)	(*)	(*)	
DEAN SAUSAGE CO INC	6621					(*)	
MORRISSEY MEATS & PROVISIONS	6628	(*)	(*)	(*)	(*)		
BOONEVILLE PACKING CO	6635	(*)				(*)	
PETE'S MARKET	6636	(*)		(*)		(*)	
TUCKER'S SAUSAGE	6643					(*)	
SPRING CREEK INC	6644		(*)			(*)	
MEAT PROCESSING INC	6648	(*)	(*)			(*)	
BRASELTON PACKING	6652	(*)	(*)		(*)	(*)	
MACELO DE HUMACAO	6676	(*)	(*)	(*)	(*)	(*)	
ASOCIACION SUPLIDORES DE CARNES DEL DESTE	6677	(*)	(*)	(*)	(*)	(*)	
YAUCO MUNICIPAL GOVERNMENT	6678	(*)	(*)	(*)	(*)	(*)	
MANATI MUNICIPALITY	6679	(*)	(*)				
MUNICIPAL SLAUGHTER HOUSE	6680	(*)	(*)			(*)	
MUNICIPALITY OF VIEQUES	6681	(*)					
MUNICIPALITY OF ARECIBO	6682	(*)				(*)	
AGROPECUARIA DEL SUR INC	6684	(*)	(*)		(*)	(*)	
NAGUABO REGIONAL ABATTOIR	6686	(*)	(*)	(*)	(*)	(*)	
SAN SEBASTIAN ABATTOIR	6687	(*)	(*)	(*)	(*)	(*)	
BUCKLEY MEAT PACKERS INC	6688	(*)	(*)			(*)	
MACELO MUNICIPAL DE PONCE	6689	(*)	(*)	(*)	(*)	(*)	
MACELO DE COROZAL	6690	(*)	(*)			(*)	
LARES MUNICIPAL SLAUGHTER HOUSE	6696	(*)	(*)	(*)	(*)	(*)	
PELL CITY MEAT PROCESSING	6728	(*)	(*)			(*)	
PROVINI DE PUERTO RICO INC	6729		(*)				
DICKSON COUNTY MEATS INC	6750	(*)		(*)		(*)	
STAR MEAT CO	6760					(*)	
WALTER PACKING INC	6766	(*)				(*)	
CALIHAN & CO	6775	(*)					
HELMS MEATS INC	6777	(*)	(*)	(*)		(*)	
THE ROSE ABATTOIR CO	6780	(*)	(*)	(*)			
BOB EVANS FARMS INC	6785					(*)	
BERGMAN MEAT PACKING CO	6788	(*)	(*)			(*)	
ILLINI BEEF PACKERS INC	6792	(*)					
BOB EVANS FARMS INC	6807					(*)	
UTICA PACKING CO	6832					(*)	
SIDNEY MEAT CO	6843	(*)				(*)	
COLUMBIA PACKING CO INC	6853	(*)		(*)			
MARBURGER PACKING CO	6863	(*)					
LILY PACKING INC	6866	(*)					
HITCH PACKING CO INC	6887	(*)					
MILLER PROCESSING CO INC	6889	(*)	(*)	(*)	(*)	(*)	
E COUNTRY PRIDE INC	6893						(*)
ROPAK INC	6901	(*)				(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MEATXCORP	E	6920						(*)
THE CUYAHOGA MEAT CO		6963	(*)	(*)	(*)	(*)	(*)	
ABE MAY PACKING CO		6965	(*)	(*)	(*)		(*)	
SELECTED MEATS		6979	(*)	(*)				
DMF INC		6982	(*)	(*)	(*)	(*)		
JUDSON PACK INC		6989	(*)	(*)	(*)		(*)	
PURDUE UNIVERSITY MEAT SCIENCE LABORATORY		6992	(*)		(*)		(*)	
SCHWARTZMAN PACKING CO		7003	(*)		(*)			
DEMING PACKING CO INC		7005	(*)				(*)	
CATTLEMEN'S MEAT CO		7007	(*)	(*)	(*)	(*)	(*)	
CLINT PACKING CO INC		7009	(*)	(*)	(*)	(*)	(*)	
MUSKOGEE PACKING CO INC		7015	(*)	(*)	(*)	(*)		
HATCH PACKING CO INC		7021	(*)	(*)	(*)	(*)	(*)	
SIXTY-SIX PACKING CO		7023	(*)		(*)		(*)	
WESTERN MEAT PACKERS INC		7028	(*)				(*)	
KACHINA PACKING CO		7040	(*)		(*)	(*)	(*)	
BELTEX CORPORATION	E	7041						(*)
PROGRESSIVE BEEFPACKERS INC		7048	(*)	(*)	(*)	(*)	(*)	
AL'S MEAT PACKERS		7049	(*)	(*)	(*)	(*)	(*)	
DALHART PROCESSING PLANT		7050	(*)	(*)	(*)	(*)	(*)	
HARRYMAN'S MEAT PROCESSING		7052	(*)	(*)			(*)	
ROCKING V BEEF INC		7054	(*)	(*)	(*)	(*)	(*)	
BROWN'S MEAT LOCKER		7055	(*)		(*)	(*)	(*)	
DONOHO BONELESS BEEF CO		7056	(*)	(*)	(*)	(*)	(*)	
BROWN PACKING CO INC		7064	(*)				(*)	
RUNYAN PACKING CO		7065	(*)	(*)	(*)	(*)	(*)	
J & B SAUSAGE CO INC		7066	(*)	(*)			(*)	
P & S PACKING CO		7074	(*)	(*)			(*)	
TANKERSLEY BROS PACKING CO		7075	(*)	(*)	(*)	(*)	(*)	
COMMUNITY ABATTOIR INC		7075A	(*)	(*)	(*)	(*)	(*)	
HUGHSON MEAT CO INC		7086	(*)	(*)	(*)	(*)	(*)	
CLENNIN MEATS		7090	(*)	(*)	(*)	(*)	(*)	
ATHENS PROCESSING PLANT		7094	(*)	(*)			(*)	
TURVEY INC		7097	(*)					
E-TEX PACKING CO		7122	(*)	(*)				
FELICIANA MEAT SUPPLY		7128	(*)	(*)	(*)	(*)	(*)	
WINDTHORST FINE MEATS		7130	(*)		(*)	(*)	(*)	
COLORADO PACKING CO INC		7133	(*)	(*)			(*)	
VALLEY MEAT SUPPLY & SERVICES		7138	(*)	(*)	(*)	(*)	(*)	
WICKHAM PACKING CO INC		7139	(*)	(*)			(*)	
B & B PACKING CO		7146	(*)	(*)	(*)	(*)	(*)	
OSBURN PACKING CO		7150	(*)	(*)			(*)	
DON MCDONELL MEAT PACKING CO		7155	(*)				(*)	
SOUTHERN MEAT PACKERS INC		7157					(*)	
GREER'S INC		7159					(*)	
BOOKER CUSTOM PACKING CO		7162	(*)	(*)		(*)	(*)	
BAUER & SON PACKING CO		7178	(*)	(*)				
FARMINGTON MEAT PROCESSORS SLAUGHTERHOUSE		7183A	(*)	(*)	(*)	(*)	(*)	
ALL-STATE PACKING CO		7193	(*)	(*)		(*)		
SHALLOUP PACKING CO INC		7201	(*)	(*)	(*)		(*)	
CONCHO PACKING CO		7209	(*)	(*)	(*)	(*)	(*)	
MIMS MEAT CO INC		7233A	(*)	(*)				
COLUMBIA PACKING		7237	(*)	(*)			(*)	
CORSICANA MEAT PACKING CO INC		7239		(*)				
AMERICAN PACKING CO INC		7248	(*)	(*)	(*)	(*)	(*)	
AMARILLO BEEF PROCESSORS INC		7254	(*)					
H & H PRODUCTS CO INC		7259	(*)	(*)	(*)		(*)	
FORREST MEAT PROCESSING		7270	(*)		(*)		(*)	
HOBSONS MEATS SLAUGHTER & PROCESSING		7274	(*)		(*)	(*)	(*)	
PALACE MEAT PACKING		7275	(*)				(*)	
PALO DURO MEAT PROCESSING INC		7282	(*)					
BEEVILLE PACKING CO		7283	(*)					
MONTGOMERY PACKING CO INC		7286	(*)	(*)	(*)	(*)	(*)	
THOMPSON PACKERS INC		7287	(*)	(*)				
STILWELL PACKING CO		7291	(*)				(*)	
CIRCLE A PACKING CO		7298	(*)				(*)	
KENTUCKY SAUSAGE CO INC		7300	(*)				(*)	
DUFFY BONELESS BEEF CO		7305	(*)	(*)				

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
METZGER PACKING CO INC	7306	(*)	(*)			(*)	
BUTLER-MIMS FROZEN FOODS	7314	(*)				(*)	
ENTERPRISE MEAT CO INC	7319	(*)	(*)				
OLE SALEM PACKING CO	7326	(*)				(*)	
MC BAR ACRES	7339					(*)	
JEFFERSON MEAT PROCESSING	7343	(*)	(*)			(*)	
WHITSON MEAT PROCESSORS	7345	(*)	(*)			(*)	
JOHN DOWDY SLAUGHTER HOUSE	7369	(*)		(*)	(*)	(*)	
J-F-J PROCESSORS	7379	(*)	(*)		(*)	(*)	
ST THOMAS ABATTOIR	7385	(*)	(*)	(*)	(*)	(*)	
SAN GERMAN SLAUGHTERHOUSE	7386	(*)	(*)	(*)	(*)	(*)	
MUNICIPIO DE CABO ROJO	7387	(*)	(*)	(*)	(*)	(*)	
QUEBRADILLAS MUNICIPAL SLAUGHTER HOUSE	7388	(*)	(*)	(*)	(*)	(*)	
MACELO DE AIBONITO	7390	(*)	(*)		(*)	(*)	
JONES CHAMBLISS	7359	(*)					
COLEMAN SAUSAGE CO	7401					(*)	
HENRY W STAPF INC	7402			(*)			
HARRISONBURG WHOLESALE MEAT CO	7420	(*)	(*)	(*)	(*)	(*)	
CUTHIEL'S MEATS INC	7422	(*)					
HAMPTON MEAT PROCESSING	7429	(*)	(*)	(*)		(*)	
SHARON FROZEN FOOD LOCKER	7430	(*)	(*)	(*)		(*)	
PHILLIPS MEAT PROCESSING CO	7433	(*)				(*)	
DELTA PACKING CO INC	7435	(*)					
DINNER BELL MEAT PRODUCTS	7440	(*)	(*)	(*)		(*)	
BLUE RIDGE BEEF PLANT INC	7445	(*)					
WILLIAMS SAUSAGE CO	7455					(*)	
TITANGEL ABATTOIR	7462	(*)	(*)		(*)	(*)	
F B PURNELL SAUSAGE CO INC	7464	(*)			(*)	(*)	
DIAMOND MEAT CO INC	7465	(*)		(*)		(*)	
HYDER'S SLAUGHTERING	7466	(*)		(*)		(*)	
FIELD PACKING CO	7467	(*)					
H & R CUSTOM SLAUGHTERING	7472	(*)				(*)	
BRUNDIDGE SAUSAGE CO	7475					(*)	
TENNESSEE PACKERS & PROCESSORS	7482	(*)	(*)				
DANVILLE MEAT PRODUCTS CO	7486	(*)				(*)	
DUGGARD'S MEAT PROCESSING INC	7493	(*)	(*)		(*)	(*)	
HOERTER & SON	7497			(*)			
T M LANDIS INC	7517	(*)	(*)	(*)			
DEALAMAN ENTERPRISES INC	7562	(*)	(*)	(*)		(*)	
GARTNER-HARF CO	7576	(*)					
DAKOTA PACKING CO	7600	(*)		(*)		(*)	
ABERCROMBIE MEAT PROCESSING CO	7601	(*)	(*)	(*)		(*)	
M & W BEEF PACKERS	7602	(*)	(*)				
MISSOURI VALLEY MEAT CO	7604	(*)	(*)	(*)		(*)	
CEDAR RIDGE MEAT SERVICE	7607	(*)		(*)		(*)	
HOFE LOCKER PLANT	7609	(*)	(*)	(*)		(*)	
CASSELTON COLD STORAGE	7611	(*)	(*)	(*)	(*)	(*)	
GREAT BEND LOCKERS	7612	(*)		(*)		(*)	
FAIRMOUNT LOCKERS	7615	(*)	(*)	(*)	(*)	(*)	
SHONEYS BIG BOY ENTERPRISES INC	7616	(*)		(*)		(*)	
PARK RIVER LOCKER PLANT	7618	(*)		(*)		(*)	
BOWDEN LOCKER PLANT	7620	(*)	(*)	(*)		(*)	
LANGDEN LOCKERS	7622	(*)	(*)	(*)		(*)	
AAFEDTS LOCKER PLANT	7623	(*)		(*)		(*)	
ROCKLAKE LOCKER PLANT	7624	(*)		(*)		(*)	
ANETA MEATS	7625	(*)		(*)	(*)	(*)	
NORTH DAKOTA STATE UNIVERSITY ANIMAL SCIENCE	7627	(*)		(*)		(*)	
GRANN'S PROCESSING	7634	(*)		(*)		(*)	
BICKLER'S JACK & JILL	7635	(*)	(*)	(*)	(*)	(*)	
DAKOTA MEATS INC	7636	(*)	(*)	(*)	(*)	(*)	
NORTH DAKOTA STATE HOSPITAL	7639	(*)	(*)				
MYERS MEAT PROCESSING	7641	(*)		(*)		(*)	
HILLSIDE MEAT CO	7642	(*)		(*)		(*)	
CITY MEAT & LOCKER	7644	(*)		(*)		(*)	
METSCH JACK & JILL	7646	(*)				(*)	
FRED BORN	7648	(*)				(*)	
SMITH RED BARN INC	7649	(*)				(*)	
K & E PROCESSING & SALES	7655	(*)		(*)		(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
JOHN BONN	7656	(*)				(*)	
JAT CORORATION	7661	(*)	(*)	(*)		(*)	
MORGAN COLORADO BEEF CO	7671	(*)					
CITY MEAT CO	7677	(*)		(*)		(*)	
RAHR MEAT SERVICE	7678	(*)		(*)			
MILES CITY PACKING CO	7679	(*)	(*)	(*)			
HARDT'S INC	7684	(*)					
SEITZ-BOWERS PROCESSING PLANT	7685	(*)		(*)		(*)	
TIMBERLAND PACKING CORPORATION	7687	(*)	(*)	(*)			
ROCKY MOUNTAIN PACKING CO INC	7690	(*)	(*)	(*)		(*)	
TRIANGLE PACKING CO	7691	(*)					
MARIAS PACKING CO	7692	(*)	(*)	(*)		(*)	
LLOYD & SCHMITT'S STANFORD MEAT	7694	(*)		(*)			
C & W MEAT CO	7695	(*)	(*)	(*)		(*)	
MONTANA STATE PRISON	7707	(*)				(*)	
ROBERTS PACKING PLANT	7708	(*)	(*)			(*)	
C & P PACKING PLANT INC	7710	(*)		(*)	(*)	(*)	
HI-LINE PACKING	7711	(*)		(*)			
FAN MOUNTAIN MEATS	7712	(*)	(*)	(*)		(*)	
GALLATIN VALLEY PACKING	7713	(*)	(*)	(*)	(*)	(*)	
KALISPELL MEAT CO	7716	(*)	(*)	(*)			
WHITES WHOLESALE MEATS	7717	(*)	(*)	(*)		(*)	
VANDERVANTER MEATS	7718	(*)	(*)				
RASMUSSEN MEATS	7719	(*)	(*)		(*)	(*)	
TOLMAN MEAT PROCESSING	7724	(*)	(*)	(*)		(*)	
MICKEY'S PACKING PLANT	7732	(*)	(*)	(*)		(*)	
LIMON PACKING CO	7738	(*)		(*)			
MODERN LOCKER PLANT	7745	(*)	(*)	(*)	(*)	(*)	
COLORADO STATE UNIV DEPT OF ANIMAL SCIENCES	7747	(*)		(*)		(*)	
CEDAREDGE LOCKER PLANT	7748	(*)		(*)	(*)	(*)	
ROYAL GORGE PACKING CO INC	7749	(*)	(*)	(*)	(*)	(*)	
BLAINE MEAT CO	7755	(*)					
E JET PAK INTERNATIONAL INC	7755						(*)
UNIVERSITY OF MINNESOTA MEAT SCIENCE LAB	7759	(*)	(*)	(*)		(*)	
BOB EVANS FARM INC	7763					(*)	
ADAMS LOCKER	7774	(*)	(*)	(*)		(*)	
DALES MEAT PROCESSING	7781	(*)	(*)	(*)		(*)	
LINDENFELSER MEATS	7782	(*)				(*)	
HUETTLS LOCKER & DRESSING PLANT	7785	(*)	(*)	(*)		(*)	
SWANSON MEAT MARKET	7790	(*)	(*)			(*)	
CARLOS LOCKERS	7796	(*)	(*)	(*)	(*)	(*)	
GARFIELD LOCKER	7797	(*)	(*)	(*)		(*)	
CLARISSA MEATS	7799	(*)	(*)	(*)	(*)	(*)	
CCB ABATTOIR	7801	(*)	(*)	(*)			
BANGOR BEEF CO	7806	(*)	(*)		(*)	(*)	
CONTI PACKING CO INC	7814	(*)					
KENNETH BAKER FARMS	7845	(*)	(*)	(*)	(*)	(*)	
READFIELD ABATTOIR	7874	(*)	(*)	(*)	(*)	(*)	
BOVALINA PACKING CO INC	7875	(*)	(*)	(*)	(*)	(*)	
HORST CUSTOM SLAUGHTERING & PROCESSING	7882	(*)	(*)	(*)		(*)	
PETER D VILLARI INC	7887				(*)	(*)	
JAMES F ETZLER	7897	(*)				(*)	
BRADLEY PROCESSING CO	7900	(*)				(*)	
LAWSON PACKING CO	7908	(*)	(*)	(*)	(*)	(*)	
WRIGHT'S PROVISIONS INC	7920					(*)	
PARTIN'S COUNTRY SAUSAGE	7923					(*)	
ROBBINS PACKING CO INC	7932	(*)				(*)	
KOCH BEEF CO	7937	(*)	(*)				
HIXSON PACKING CO	7938	(*)	(*)		(*)	(*)	
SOUTHERN PACKING CORPORATION	7945	(*)	(*)	(*)		(*)	
CHARLES J SCHMIDT & CO	7948	(*)		(*)			
DREHER PACKING CO INC	7957					(*)	
MATKINS MEAT PROCESSORS INC	7975	(*)	(*)			(*)	
KLING'S MEAT MARKET	7983	(*)	(*)	(*)		(*)	
UNIVERSITY OF KENTUCKY MEAT LABORATORY	8013	(*)		(*)		(*)	
BERRYHILL MEAT PROCESSING	8016	(*)	(*)		(*)	(*)	
V W MILLER & SONS	8022	(*)	(*)	(*)		(*)	
THE MEAT CENTER INC	8024	(*)	(*)	(*)	(*)	(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

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NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
BOURBON PACKING CO		8027	(*)	(*)	(*)			
WALTON LOCKER & SLAUGHTER PLANT		8031	(*)	(*)	(*)			
BILL WHEELER SLAUGHTER HOUSE		8034			(*)			
FARMERS SLAUGHTER HOUSE		8035	(*)	(*)	(*)	(*)	(*)	
HARRY ROSS PACKING CO		8045	(*)		(*)			
SLADE'S MEAT PACKERS INC		8054	(*)		(*)			
HUGHES MARKET		8055			(*)			
JUENGLING COMMODITIES CORPORATION		8058	(*)					
S M CAMPBELL CO INC		8062	(*)		(*)			
LORETTO MEAT PROCESSORS		8064	(*)	(*)	(*)	(*)	(*)	
GRIBBLE'S PROCESSING		8066	(*)	(*)			(*)	
ROYAL PACKING CO		8069	(*)		(*)			
CLARDY'S MEAT PROCESSING		8070	(*)		(*)			
BOONE'S BUTCHER SHOP		8078	(*)	(*)	(*)			
KIRBY & POE SLAUGHTER HOUSE		8082	(*)		(*)			
GREGORY SLAUGHTER HOUSE INC		8083	(*)		(*)		(*)	
RIGHT BEAVER PACKING CO		8086	(*)	(*)			(*)	
DOUGLASS SLAUGHTER HOUSE		8087	(*)		(*)			
ELMORE & PAYNE PACKING CO INC		8088	(*)	(*)	(*)	(*)	(*)	
PICKETT'S PROCESSING INC		8090	(*)					
WOOD'S MEAT PROCESSING		8120	(*)	(*)	(*)		(*)	
IGNACIO FOOD STORE INC		8123	(*)		(*)		(*)	
IGNACIO FOOD STORE INC		8123A	(*)				(*)	
STEAMBOAT PACKING CO		8124	(*)	(*)	(*)		(*)	
JENSEN'S BLUE RIBBON PROCESSING INC		8131	(*)		(*)	(*)	(*)	
BROWNSDALE MEAT SERVICE INC		8189	(*)	(*)	(*)		(*)	
SOL'S PACKING		8195	(*)	(*)	(*)	(*)	(*)	
CROSBYTON WHOLESALE MEATS		8205	(*)		(*)	(*)	(*)	
C V PANIZERA		8271	(*)	(*)	(*)	(*)	(*)	
SUNSHINE MEAT CO		8286	(*)	(*)	(*)	(*)	(*)	
CURTIS PACKING CO INC		8302	(*)	(*)	(*)	(*)	(*)	
NATION'S MEAT CO INC		8303	(*)				(*)	
LARRY'S SAUSAGE CO		8305					(*)	
FALCON WHOLESALE MEAT		8309	(*)				(*)	
FULLER SLAUGHTER PLANT		8312	(*)			(*)	(*)	
FORTENBERRY SAUSAGE CO		8313	(*)	(*)	(*)		(*)	
SHAGGERTY SAUSAGE CO INC		8314	(*)				(*)	
WADE AUSMUS		8315	(*)					
HERRON PACKING CO		8316	(*)	(*)	(*)	(*)	(*)	
LINGO PACKING CO		8319	(*)				(*)	
ESTEPP SLAUGHTER		8320	(*)	(*)	(*)		(*)	
SELL MEAT CO INC		8321	(*)	(*)	(*)			
WADE BULLA SLAUGHTER HOUSE		8323	(*)	(*)			(*)	
MADISON PACKING CO		8325	(*)			(*)	(*)	
VALLEY SLAUGHTER & PROCESSING		8326	(*)	(*)	(*)			
B & B PACKING CO		8327	(*)	(*)			(*)	
HOLDEN BROTHERS PACKING CO		8329	(*)				(*)	
D & W PACKING INC		8331	(*)					
Q R S MEAT CO INC		8332	(*)		(*)		(*)	
COOP AGRICOLA DE CIORA		8336	(*)	(*)	(*)			
PERFECTA USA INTERNATIONAL	E	8337						(*)
HOLLAND & DOTSON SLAUGHTER & PROCESSING		8339	(*)				(*)	
CITY PACKING CO		8341					(*)	
ALLIED MILLS INC		8344	(*)	(*)	(*)	(*)	(*)	
RILEY MEAT CO		8346	(*)					
EMORY RIVER PROCESSING CO		8353	(*)				(*)	
R G GUNNOE FARMS INC		8392					(*)	
TURNER FARM MEAT PROCESSING		8401	(*)				(*)	
DUNN BROTHERS MEATS INC		8404	(*)			(*)	(*)	
DUNN BROTHERS MEATS INC		8404D	(*)	(*)		(*)	(*)	
ROBINSON SAUSAGE CO		8405	(*)				(*)	
ROBERT L BULLOCK		8461	(*)	(*)	(*)		(*)	
CENTRAL MEAT PACKING DIV CENTRAL FOOD SERVICE		8496	(*)	(*)			(*)	
CONNECTICUT PACKING CO		8502	(*)	(*)	(*)	(*)	(*)	
KARL EHMER INC FARM		8520A	(*)					
BURTON BLOCK	E	8523						(*)
CORBIN MEAT PACKING CO		8537	(*)	(*)	(*)	(*)		
CHAMPLAIN BEEF CO		8547	(*)	(*)	(*)		(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
BLOUGH PACKING	8551	(*)	(*)	(*)	(*)	(*)	
LEALI BROS INC	8555	(*)	(*)	(*)		(*)	
NEW HOLLAND MEAT MARKET	8556	(*)	(*)			(*)	
SHOBER & SONS INC	8557	(*)	(*)				
M & J HOUSE OF BEEF & PORK INC	8558	(*)	(*)	(*)		(*)	
S WRIGHT MEAT PACKING CO	8559	(*)		(*)	(*)	(*)	
JUNIATA PACKING CO	8560	(*)	(*)	(*)		(*)	
GODFREY BROS	8562	(*)	(*)	(*)		(*)	
R L SIPES LOCKER PLANT	8565	(*)	(*)	(*)		(*)	
WELTERS CUSTOM SLAUGHTERING	8569	(*)				(*)	
W W SNAVELY & SON	8570	(*)	(*)	(*)		(*)	
KNUPP BROTHERS	8572	(*)	(*)	(*)		(*)	
JAMES EBERLY	8573	(*)	(*)	(*)		(*)	
CHARLES ILYES	8576	(*)		(*)		(*)	
PETERS BROS MEAT MARKET INC	8581	(*)	(*)	(*)	(*)	(*)	
RICHARD W SERENA	8582	(*)					
FRITZ'S MEATS	8585	(*)				(*)	
BILSKI MEATS	8586	(*)	(*)	(*)	(*)	(*)	
MOWRY'S MEAT PROCESSING	8587	(*)	(*)	(*)		(*)	
LLOYD & EARL YOUNDT	8588	(*)	(*)			(*)	
CUNNINGHAM PKG CO	8590	(*)	(*)	(*)		(*)	
CARL GOOD INC	8591	(*)	(*)			(*)	
JOHN M PELUSO & SONS	8592	(*)				(*)	
ROSE'S SLAUGHTER HOUSE	8595	(*)	(*)	(*)		(*)	
SECHRIST BROS INC	8596	(*)	(*)	(*)			
RILEY MEAT PROCESSING	8604	(*)	(*)	(*)		(*)	
RICHARD L BECK & SONS INC	8607	(*)	(*)	(*)	(*)	(*)	
CHARLES WINICK	8608	(*)	(*)	(*)		(*)	
NEW WILMINGTON SLAUGHTER HOUSE	8609	(*)	(*)	(*)		(*)	
JAMES R MCDEAVITT	8610	(*)	(*)	(*)		(*)	
WITMAN'S MEATS	8611	(*)	(*)	(*)		(*)	
KOVACEVIC BROS PACKING CO	8612	(*)	(*)	(*)	(*)	(*)	
KARL K KLING	8613	(*)	(*)	(*)			
HI WAY MEAT MARKET	8615	(*)	(*)	(*)		(*)	
DYSINGER MEATS INC	8622	(*)	(*)	(*)		(*)	
PAUL E ADAMS	8623	(*)	(*)			(*)	
C M REED'S SONS	8624		(*)				
A J PEACEY & SONS	8628	(*)	(*)	(*)		(*)	
RAY T BENNER & SON	8630	(*)	(*)			(*)	
HARRY HARPER WAGNER	8631	(*)					
HONSAKER BROS MEAT MARKET	8632	(*)	(*)	(*)		(*)	
TED'S MEAT MARKET	8633	(*)	(*)	(*)		(*)	
ESPENSHADE QUALITY MEATS	8635	(*)	(*)	(*)			
HIRSCH MEATS	8636	(*)	(*)	(*)		(*)	
ECONOMY LOCKER STORAGE CO INC	8642	(*)	(*)	(*)	(*)	(*)	
CECIL F FRAKER	8643	(*)	(*)	(*)		(*)	
REBUCK FARMS	8644	(*)	(*)	(*)			
ROTHERMEL MEATS	8645	(*)	(*)	(*)	(*)	(*)	
SIPP'S INC	8646	(*)	(*)	(*)		(*)	
HENRY'S MEAT MARKET	8648	(*)	(*)	(*)		(*)	
GIUNTA WHOLESALE MEATS	8649	(*)	(*)	(*)	(*)	(*)	
HILLENBURG PROCESSING & SLAUGHTER	8680A	(*)	(*)	(*)	(*)	(*)	
DAN'S COUNTRY MEATS INC	8681	(*)	(*)	(*)	(*)	(*)	
QUEEN CITY PACKING CO	8682	(*)	(*)	(*)		(*)	
LE DUC PACKING CO	8687	(*)	(*)	(*)	(*)	(*)	
CANTON LOCKER SLAUGHTER HOUSE	8689A	(*)	(*)	(*)	(*)	(*)	
POLO LOCKER SYSTEM INC	8695	(*)	(*)			(*)	
NEW FRANKLIN LOCKER SERVICE	8696	(*)	(*)	(*)	(*)	(*)	
UHRIGS SLAUGHTER HOUSE	8697	(*)	(*)				
WRIGHT CITY MEAT CO	8699	(*)	(*)			(*)	
WEBER MEAT SERVICE	8702	(*)	(*)	(*)	(*)	(*)	
WARNER LOCKER INC	8703	(*)				(*)	
PRINCETON FOOD SERVICE	8705	(*)	(*)	(*)	(*)	(*)	
OYLER'S LOCKER SERVICE	8706	(*)		(*)			
NOVINGER FOOD LOCKER	8707	(*)	(*)	(*)	(*)	(*)	
HALE LOCKER PLANT	8710	(*)	(*)			(*)	
DON'S PLACE	8714	(*)	(*)	(*)	(*)	(*)	
BOUCHAERT PACKING CO	8716	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY

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NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
KELLER PROCESSING SERVICE	8717	(*)	(*)	(*)	(*)	(*)	
SERLOIN CHOPS OF STEPHENVILLE	8719	(*)				(*)	
SUPER RITE MEAT CO	8720	(*)	(*)	(*)	(*)	(*)	
TEXAS LAMB CO INC	8723			(*)			
GROVES PACKING CO	8724	(*)	(*)			(*)	
GOLDEN CITY MEAT CO	8725	(*)	(*)	(*)	(*)		
ALMA COOP LOCKER ASSN	8728	(*)	(*)	(*)		(*)	
BOOMER PACKING CO INC	8729	(*)	(*)	(*)	(*)	(*)	
LEWISTOWN LOCKER	8730	(*)	(*)	(*)		(*)	
UPTOWN SLAUGHTER HOUSE	8731	(*)	(*)	(*)		(*)	
PLEASANT HILL MEAT CO	8734	(*)	(*)				
MAUPIN PROCESSING PLANT	8735	(*)	(*)		(*)		
LOCKNEY MEAT CO	8736	(*)	(*)	(*)	(*)	(*)	
ADRIAN MEATS	8737	(*)	(*)	(*)		(*)	
STONYHILL MEAT	8738	(*)	(*)	(*)	(*)	(*)	
BAKER PACKING CO	8743	(*)	(*)	(*)		(*)	
SCHOOL OF THE OZARKS	8745	(*)	(*)			(*)	
GLASGOW LOCKER SERVICE	8747	(*)	(*)	(*)		(*)	
HAMILTON LOCKER	8748	(*)	(*)	(*)		(*)	
THERIAULT'S ABATTOIR INC	8772	(*)	(*)			(*)	
CLARK PACKING CO INC	8799					(*)	
MONROEVILLE PACKING CO	8850	(*)	(*)	(*)	(*)	(*)	
AMFRAN PACKING CO INC E	8861						(*)
OXFORD ABATTOIR	8866	(*)	(*)	(*)	(*)		
JOHN F MARTIN & SONS INC	8888	(*)	(*)			(*)	
WEST DOVER BUTCHER SHOP	8892	(*)	(*)				
GREGGWOOD FARM	8901					(*)	
ERDMAN SUPERMARKETS INC	8905	(*)	(*)	(*)		(*)	
MCDONALD'S FOOD MARKET	8915	(*)				(*)	
ST JOSEPH MEAT MARKET INC	8916	(*)	(*)	(*)		(*)	
FROZ-N-FOODS CO	8917	(*)	(*)	(*)	(*)	(*)	
GORDHAMER'S FOOD MARKET	8920	(*)				(*)	
RUCK'S MEAT PROCESSING CENTER INC	8921	(*)	(*)	(*)	(*)	(*)	
READ'S PROCESSING SERVICE	8922	(*)		(*)		(*)	
IMDIEKE'S MEATS	8927	(*)	(*)	(*)		(*)	
RAPIDS LOCKER	8928	(*)	(*)	(*)	(*)	(*)	
PLANTENBERG MARKET INC	8931	(*)	(*)			(*)	
CARLSON MEAT PROCESSING INC	8948	(*)	(*)	(*)	(*)		
DAVE & TED'S LOCKERS INC	8950	(*)	(*)	(*)	(*)	(*)	
PIONEER SLAUGHTER PLANT	8952	(*)	(*)			(*)	
APPERT'S INC	8953	(*)	(*)	(*)		(*)	
SPIKES LOCKERS	8954	(*)	(*)				
HERGES MEAT MARKET INC	8959	(*)	(*)	(*)	(*)	(*)	
CITY MEAT MARKET	8960	(*)	(*)			(*)	
NEW MUNICH LOCKER PLANT	8961	(*)	(*)			(*)	
PETER'S FOOD MARKET	8963	(*)	(*)			(*)	
FORSTER PACKING CO INC	8966	(*)	(*)	(*)		(*)	
PARROT PACKING CO INC	8968	(*)	(*)			(*)	
DREWES FROZEN FOOD CENTER	8971	(*)	(*)	(*)	(*)	(*)	
FOSSTON COOP ASSN	8974	(*)	(*)			(*)	
CITY MEAT MARKET	8975	(*)	(*)	(*)		(*)	
LYNCH'S FOODS	8976	(*)	(*)	(*)		(*)	
GENEVA MEATS & PROCESSING	8979	(*)	(*)	(*)	(*)		
GREENWALD LOCKER PLANT	8982	(*)	(*)				
DELFT BLUE-PROVIMI INC	8984					(*)	
JOPPRU INC	8988	(*)		(*)	(*)	(*)	
MIDBOOM MEAT SERVICE	8989	(*)	(*)	(*)		(*)	
CALIFORNIA STATE UNIV MEAT LABORATORY	9004	(*)				(*)	
JOHANSEN'S MEAT MARKET	9008	(*)	(*)	(*)	(*)	(*)	
MOXON'S GOLD STAR MEAT	9024	(*)	(*)	(*)	(*)	(*)	
MARIN MEAT CO	9025	(*)	(*)	(*)			
SHINGLE MEAT CO	9032	(*)		(*)	(*)	(*)	
THOS G EVART MEAT CO	9049	(*)	(*)	(*)	(*)	(*)	
MODOC MEAT PACKERS	9053	(*)		(*)	(*)	(*)	
IMPERIAL PACKING CO	9062	(*)					
HAMPLER WHOLESALE MEATS INC	9065	(*)	(*)			(*)	
BELVIDERE PACKING CO INC	9068	(*)	(*)	(*)		(*)	
THOMASTON BEEF & VEAL INC	9069	(*)	(*)	(*)	(*)	(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 21 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
SMITH'S MEAT PROCESSING CO	9073	(*)	(*)	(*)		(*)	
SNOW HILL PROCESSING PLANT	9075	(*)	(*)			(*)	
NESMITH PACKING CO	9077					(*)	
GOLD KIST INC PORK DIVISION	9084	(*)	(*)			(*)	
SNAPPS FERRY PROCESSING CO	9085	(*)	(*)			(*)	
M R DELCZIER SAUSAGE CO	9086	(*)	(*)			(*)	
TOM KING & SON PACKING CO	9091	(*)					
LAUDERDALE FARMS CO	9095	(*)			(*)	(*)	
CARTERS VALLEY PACKING CO	9107	(*)		(*)	(*)	(*)	
ELLIOTT & SON'S	9111	(*)				(*)	
FAIRPLAY MEAT PROCESSING INC	9112	(*)				(*)	
BROWN FUQUAY ENTERPRISES INC	9124	(*)	(*)	(*)	(*)	(*)	
JACKSON PACKING CO	9130	(*)				(*)	
AVCO MEAT CO INC	9131	(*)					
JUSTICE PACKING CO	9136	(*)	(*)				
STEVE BROOKS MEATS	9139	(*)					
SOWEGA MEAT CO	9142	(*)	(*)	(*)	(*)	(*)	
SOUTHERN ABATTOIR MEAT SUPPLY CO	9143	(*)	(*)			(*)	
MICKEY'S MEATS	9144	(*)			(*)		
BILL OPELL'S MEAT PROCESSING	9148	(*)	(*)	(*)		(*)	
FLORIDA STATE MEAT PACKERS INC	9153	(*)					
R L ZEIGLER CO INC	9156S	(*)					
R L ZEIGLER CO INC	9156T	(*)					
MCLENDON MEAT CO	9159	(*)		(*)	(*)	(*)	
SCOTT'S MEAT PACKERS INC	9160	(*)	(*)		(*)	(*)	
SHULL SAUSAGE CO INC	9161					(*)	
LAKEVIEW PACKING CO	9166	(*)				(*)	
PASTURES INC E	9174						(*)
CATTLEMAN PACKING CO	9177	(*)				(*)	
CARROLL PACKING CO	9185	(*)	(*)		(*)	(*)	
RIVER ROUTE PACKING PLANT INC	9186	(*)					
PARIS MEAT PROCESSING CO	9187	(*)	(*)		(*)	(*)	
FARM FRESH MEATS INC	9189	(*)	(*)			(*)	
CLIATT-WELLS COUNTRY STYLE WHOLE HOG SAUSAGE	9190					(*)	
HAMILTON PACKING CO INC	9191	(*)				(*)	
UNIVERSITY OF TENNESSEE MEAT LABORATORY	9193	(*)		(*)		(*)	
SOUTHEASTERN MEAT PROCESSORS INC	9196	(*)	(*)		(*)	(*)	
WHITE HOUSE PACKING CO INC	9199	(*)				(*)	
HILL MEAT CO INC	9201	(*)	(*)	(*)		(*)	
DELTA MEATS INC	9209	(*)	(*)	(*)	(*)	(*)	
SANTIAM MEAT PACKERS	9220	(*)	(*)	(*)	(*)	(*)	
OREGON STATE UNIV MEAT SCIENCE LABORATORY	9223	(*)		(*)		(*)	
CARLTON PACKING CO	9228	(*)	(*)	(*)		(*)	
DAYTON MEAT CO	9230	(*)	(*)	(*)	(*)	(*)	
HABERMANS MEAT SERVICE	9232	(*)	(*)	(*)	(*)	(*)	
STAFFORD'S MEATS	9233	(*)	(*)	(*)	(*)	(*)	
JACOBSMUHLENS MEATS	9234	(*)	(*)	(*)	(*)	(*)	
A & B MEAT PACKING	9239	(*)	(*)	(*)	(*)	(*)	
POPE'S MERRILL MEAT CO	9240	(*)	(*)	(*)		(*)	
FARMER PACKING CO	9243	(*)	(*)	(*)	(*)	(*)	
HORIZON PACKING CO	9245	(*)	(*)				
BOYER MEAT CO	9246	(*)	(*)	(*)	(*)	(*)	
THOUSAND LAKE MEATS	9248	(*)		(*)		(*)	
ERDMAN PACKING CO	9249	(*)	(*)	(*)	(*)	(*)	
TRI VALLEY MEAT CO	9251	(*)	(*)	(*)	(*)	(*)	
MOHAWK PACKING CO	9252	(*)	(*)	(*)	(*)	(*)	
SPRINGFIELD SLAUGHTER PLANT	9256	(*)	(*)	(*)	(*)	(*)	
GATES WAY MEAT CO	9257	(*)	(*)	(*)		(*)	
MOLALLA MEATS	9263	(*)	(*)	(*)	(*)	(*)	
LEE MEAT CO	9264	(*)	(*)	(*)	(*)	(*)	
MARKS MEAT CO	9265	(*)	(*)	(*)	(*)	(*)	
IOWA BEEF PROCESSORS INC	9268	(*)					
MT ANGEL MEAT CO	9270	(*)	(*)	(*)	(*)	(*)	
OREGON STATE PENITENTIARY ANNEX	9272	(*)				(*)	
INDEPENDENCE CUSTOM MEAT SERVICE	9273	(*)	(*)	(*)	(*)	(*)	
MCKILLIP BROS MEAT CO INC	9274	(*)				(*)	
BOSTON'S BEEF HOUSE	9275	(*)	(*)	(*)			
K-K RANCH MEATS	9276	(*)		(*)		(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

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NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HOPKINS WHOLESALE MEATS		9277	*	*	*		*	
JOHN DAY VALLEY PACKING CO		9286	*	*	*	*	*	
D & L MEAT CO		9287	*	*	*	*	*	
WILDER MEAT CO		9289	*	*	*	*	*	
CROOKED RIVER MEAT CO		9291	*	*	*	*	*	
ORIO MEAT CO	E	9294						*
WALT'S CUSTOM SLAUGTERING		9300	*	*	*	*	*	
TERRY BROS INC		9315	*	*	*		*	
VERNS MOSES LAKE MEATS		9318	*	*	*		*	
CURCIO'S MEAT CO		9319	*	*		*	*	
WASHINGTON STATE UNIV MEAT SCIENCE LAB		9322	*	*	*		*	
FONDIS PACKING & CATTLE CO		9324	*	*	*	*	*	
LAMPAERT MEATS		9325	*	*	*	*	*	
OWENS PACKING CO		9331	*	*			*	
COLVILLE MEAT PROCESSOR'S		9334	*	*	*		*	
MC INRAY MEAT CO		9335	*	*				
WENATCHEE MEAT PACKING INC		9338	*	*			*	
MIDWAY MEATS		9347	*	*	*		*	
COOS COUNTY FARM		9350	*				*	
DWIGHT GORDON		9351	*	*	*		*	
FAIR VIEW FARM		9353	*	*	*		*	
RUDOLPH MAMULA		9357	*	*	*	*	*	
HARVEY E DELP		9359	*	*			*	
BALTHASER'S MEAT MARKET INC		9360	*	*	*	*	*	
GRETTLER MEAT PACKERS		9366	*	*	*	*	*	
ALLENS MILLS FRESH MEATS		9367	*	*	*		*	
MIKE ZRILE MEAT		9368					*	
ALEX FROEHLICH PACKING CO		9369	*	*	*		*	
J T BARTON		9371	*	*	*		*	
MUTZABAUGH'S SLAUGHTER HOUSE		9372	*	*	*	*	*	
H L PEACHEY JR		9373	*	*	*		*	
GREGORY'S TROY MEAT PROCESSING CO INC		9374	*	*	*		*	
STOCKDALE MEAT & PROVISION		9375	*	*			*	
WILLIAMSON'S WHOLESALE MEATS INC		9376					*	
HENNINGER'S MEAT MARKET		9377	*	*	*		*	
BIERLY MEAT MARKET		9380	*	*	*		*	
ELMO MANIERI'S MEATS		9381	*	*	*	*	*	
MIKE'S PACKING CO		9382	*	*	*		*	
HARRINGTON PACKING CO INC		9384	*	*			*	
GREEN VALLEY PACKING CO		9385	*	*	*	*	*	
ADAM BUTZ JR		9389	*	*			*	
SHAW BROS INC		9390	*	*	*		*	
ROCKINGHAM COUNTY FARM		9395	*				*	
DIXON'S MEATS		9398	*	*	*	*	*	
BRISTOL BEEF CO INC		9399	*	*	*	*	*	
J V TAYLOR INC		9400	*	*				
BATTLES MEAT PROCESSING PLANT		9401	*	*	*	*	*	
JOE DEFELICE & SONS		9402	*	*	*		*	
GILLO BROS		9403	*	*	*		*	
T P CUNNINGHAM MEATS		9410	*	*	*	*	*	
SHUPES HOME DRESSED MEATS		9413	*	*			*	
GINO GIULIANI		9414	*	*	*	*	*	
EDWARD GALVANEK & SONS		9415	*	*	*	*	*	
FRANCONIA MEATS		9417	*	*	*	*	*	
LOVE WELLS COUNTRY MARKET		9419	*	*	*		*	
RICE'S MEAT MARKET		9420	*	*	*	*	*	
KVERNAGAS MEAT PLANT		9422	*	*	*		*	
STEELY MEATS		9423	*	*	*		*	
HAROLD WENTWORTH		9428	*	*	*	*	*	
ZECHMAN'S BUTCHER SHOP		9430	*	*	*		*	
YAMBROVICH MEATS		9435	*	*	*		*	
RUPERT'S MEAT MKT		9437	*	*	*	*	*	
THREE SONS MEAT MARKET		9438	*	*	*		*	
BURKHOLDER'S MEAT MARKET		9440	*	*				
GROFF MEATS INC		9442	*	*	*		*	
KREISL CO INC		9444	*					
SMITH'S SUPER MARKET INC		9445	*	*	*		*	
GRILL'S BUTCHER SHOP		9448	*					

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GEORGE N BYERLY	9450	*	*	*		*	
SHAMOKIN PACKING CO	9451	*	*	*		*	
GIORDANO SAUSAGE	9456		*	*	*	*	
RENDULIC PACKING CO	9457	*				*	
ARTHUR B WENGER	9459	*	*			*	
R E HERSHEY INC	9464	*	*	*			
HERFURTH BROS MEAT CO	9465	*	*	*		*	
LESHER'S MEATS	9467	*	*	*		*	
MYERS BROTHERS	9469	*	*	*		*	
RANCK'S MEAT MARKET	9473	*	*				
U S PENITENTIARY	9474	*		*		*	
ESPEY'S MEAT MARKET	9482	*	*	*	*	*	
R V WANTZ & SONS	9483					*	
WALTER Z DILLON	9484	*	*	*		*	
WERRY PROVISION	9489	*	*	*	*	*	
MARK R BUCHER	9492	*	*	*		*	
CHRISTMAN & FOX	9494	*	*			*	
THORNTON MEATS	9497	*	*	*	*	*	
PHILADELPHIA PORK PACKERS INC	9498	*	*	*		*	
WINDSOR MEAT MARKET	9500	*	*	*	*	*	
STONEBRIDGE FARM BUTCHER SHOP INC	9509	*	*	*		*	
FRED E SHIVELY	9511	*	*	*		*	
R P HOWRY INC	9513	*	*	*			
LEIDY'S INC	9520	*	*			*	
WEISS PACKING CO INC	9528	*	*	*	*	*	
EAST CARSON PACKING CO	9529		*	*			
BRIGHT BYERLY	9536	*	*			*	
KEN WEAVER MEATS INC	9538	*	*			*	
CLYDE R ALBERTSON	9540	*	*	*		*	
ANDERSON QUALITY MEAT MARKET	9541	*	*	*	*	*	
LEHAY & SONS BEEF	9542	*	*	*		*	
UNIVERSITY OF NEW HAMPSHIRE MEAT LABORATORY	9546	*		*		*	
EZRA W MARTIN CO	9547					*	
WAYNE NELL & SONS MEATS	9548	*	*	*	*	*	
BEACH MEAT MARKET	9550	*	*			*	
GREAT VALLEY MEAT MKT DOMINIC MEOLI	9557	*	*	*	*		
C P RHOADES & SON INC	9559	*	*	*			
FORREST D KISTLER	9561	*	*				
ANDERSON & LEHR MEATS	9562	*	*	*		*	
CHARLES T HEARD & CO	9563	*					
PUTNAK PACKING CO	9564	*	*			*	
MYERS MEAT	9565	*		*		*	
PERRY PACKING	9566	*	*	*	*	*	
PIERCE CUSTOM SLAUGHTER CO	9567	*	*	*	*	*	
CLOVERBLOOM FARM MARKET	9570	*	*			*	
DIETZ & WATSON INC	9574					*	
FICHERA'S MEATS INC	9576	*	*	*	*	*	
GOULDEY & SONS INC	9577	*	*	*	*	*	
D J HYNES	9579	*	*	*		*	
GOURLEY PACKING CO INC	9580	*	*	*		*	
LIVINGSTON PACKING CO	9581	*	*	*		*	
JONES ABATTOIR	9584	*	*	*	*	*	
LOUIS KLINE INC	9589	*	*	*	*	*	
GEORGE'S MEATS	9590	*	*			*	
CONGENS AQUILANTE	9603	*	*	*			
HAROLD A DOMB	9605	*	*	*		*	
DOWNINGTOWN WHOLESALE MEATS	9606	*	*	*		*	
FRANK ESPOSITO & SONS	9607	*	*				
GOODHARTS	9609	*	*	*		*	
LUKON MEATS INC	9616	*	*	*		*	
MOCCIO PACKING	9618	*	*				
GEORGE'S MEAT MARKET INC	9620	*	*	*	*	*	
CHARLES J PUDLINER	9622	*	*	*	*	*	
RHODES' MEAT MARKET	9623	*	*	*		*	
STOLTZFUS LOCKER & IGS FOOD MARKET	9625	*	*				
EBLING'S MEAT MARKET	9630	*	*	*		*	
PIFFERETTI PACKING CO	9631	*	*	*	*	*	
BURKHOLDER MEAT PRODUCTS	9632	*	*	*	*	*	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
JONATHAN L KING	9633	(*)	(*)	(*)		(*)	
TURNER FARMS INC	9634	(*)	(*)			(*)	
R D KELLY MEAT PACKING	9635	(*)	(*)	(*)		(*)	
M LEPIDI & SONS INC	9636	(*)	(*)	(*)		(*)	
KRALL'S MEAT MARKET	9638	(*)	(*)	(*)		(*)	
F & S MEATS	9639	(*)	(*)	(*)		(*)	
GLEN J ROSENBERRY	9640	(*)	(*)	(*)		(*)	
ALBA'S MEAT MARKET	9643	(*)	(*)				
MRS EDITH GNOILLA	9644	(*)	(*)			(*)	
SHAFFER'S ABATTOIR INC	9645	(*)	(*)	(*)			
YOST QUALITY MEATS	9646	(*)	(*)	(*)	(*)	(*)	
WATSON'S HOME DRESSED MEATS	9647	(*)	(*)	(*)	(*)	(*)	
JOSEPH VENEZIA DRESSED BEEF	9666	(*)	(*)				
BALDERSTON BROS	9670	(*)	(*)	(*)			
CATELLI INC	9671				(*)		
PRINCZ'S HOME DRESSED MEATS	9673	(*)	(*)	(*)	(*)	(*)	
FIERRO'S FOOD MARKET INC	9674	(*)					
CRISSMAN INC	9679	(*)	(*)	(*)	(*)	(*)	
PAINTER'S MEAT PRODUCTS	9683	(*)	(*)	(*)		(*)	
KECK'S MEAT PLANT	9684	(*)	(*)	(*)		(*)	
FETTEROLF'S MEAT MARKET	9685	(*)	(*)	(*)		(*)	
MARK BOWMAN	9686	(*)	(*)			(*)	
LEE BIXLER	9687	(*)	(*)	(*)		(*)	
BOYER'S MEATS	9688	(*)	(*)			(*)	
KOLB'S MEAT MARKET	9689	(*)	(*)	(*)	(*)	(*)	
CARL VENEZIA MEATS	9693	(*)	(*)	(*)			
PAUL H SCHNECK	9695	(*)	(*)	(*)	(*)	(*)	
ROBERT L BINGMAN	9696	(*)	(*)	(*)		(*)	
SMITH MEATS	9697	(*)	(*)	(*)			
HOLLAND BROS MEATS	9701	(*)	(*)	(*)		(*)	
ALFREY'S SAUSAGE CO INC	9702	(*)	(*)	(*)	(*)	(*)	
SPRINGFIELD MEAT CO	9704	(*)	(*)	(*)			
BARINGER BROS	9706	(*)	(*)	(*)		(*)	
HAGERS MEAT MARKET	9707	(*)	(*)	(*)			
HANSON'S FREEZER MEATS	9711	(*)	(*)	(*)	(*)	(*)	
COFFARO CUSTOM BUTCHERING	9712	(*)	(*)	(*)	(*)	(*)	
THOMA MEAT MARKET	9714	(*)	(*)	(*)	(*)	(*)	
DAVE FINE MEAT PACKER INC	9715	(*)	(*)	(*)	(*)	(*)	
LOUTSION PACKING CO INC	9716	(*)	(*)	(*)	(*)	(*)	
LEE GASHEL & SONS INC	9717	(*)	(*)	(*)		(*)	
AMERICAN FOODS INC	9718	(*)	(*)	(*)		(*)	
KOLB & DICKINSON 84 PACKING CO	9719	(*)	(*)	(*)	(*)	(*)	
SMITH'S FROZEN FOOD	9720	(*)	(*)	(*)	(*)	(*)	
HEINNICKEL FARMS INC	9725	(*)	(*)	(*)		(*)	
WALTER'S MEATS	9726	(*)	(*)	(*)		(*)	
HILLCREST PACKING CO	9747	(*)	(*)	(*)	(*)	(*)	
JOSEPH BENZAK JR	9753	(*)	(*)	(*)	(*)	(*)	
LEMHENEY BUTCHER SHOP INC	9755	(*)	(*)	(*)	(*)	(*)	
ROYAL SWAN FOODS INC	9758	(*)	(*)	(*)		(*)	
REHRIG'S QUALITY MEATS INC	9759	(*)	(*)	(*)		(*)	
GILBERT'S MEATS	9762	(*)					
HEINTZELMAN'S MEAT MARKET	9763	(*)	(*)				
DELBERT E HAYDT	9765	(*)				(*)	
MULITSCH'S PORK PRODUCTS	9766					(*)	
JOHN J ELNITSKI	9767	(*)				(*)	
WALTER JURCZAK	9770	(*)	(*)	(*)	(*)	(*)	
ALBERT CARUTH	9776	(*)					
HOWARD W DARLING	9777	(*)			(*)		
LEONA MEAT PLANT INC	9784	(*)	(*)	(*)		(*)	
J & B MEAT PLANT	9785	(*)	(*)	(*)		(*)	
STEPNIAK BEEF	9786	(*)	(*)	(*)			
MUSSERS INC	9788	(*)	(*)	(*)	(*)	(*)	
YOUNDT BROS	9789	(*)	(*)			(*)	
C H THOMAS SONS INC	9790	(*)				(*)	
AMOS STOLTZFUS	9792	(*)		(*)		(*)	
LOCUSTDALE PACKING CO	9799	(*)	(*)	(*)	(*)	(*)	
ALLEN I KOMBERGER	9800	(*)	(*)				
PETZNER BROTHERS INC	9808	(*)				(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 25 OF 25 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ROBZEN'S INC	9809		(*)	(*)				
HOCH'S FARMS & MARKETS INC	9810		(*)					
TWIN PINE FARM	9814		(*)	(*)			(*)	
WINTER GARDENS ABATTOIR	9815		(*)	(*)	(*)		(*)	
J A HARGLEROAD & CO	9816		(*)	(*)	(*)	(*)	(*)	
THE COUNTRY BUTCHER SHOP	9819		(*)	(*)	(*)	(*)	(*)	
HERVITZ PACKING CO	9821		(*)	(*)				
LAUDERMILCH MEATS	9823		(*)				(*)	
PHARES A LONGNECKER & SONS INC	9827		(*)					
CLOVER MEAT PACKING INC	9828		(*)	(*)			(*)	
N S TROUTMAN & SONS	9832		(*)	(*)			(*)	
MIKE LEVCHIK	9834		(*)	(*)	(*)		(*)	
GLENN J BEASTON	9835		(*)	(*)			(*)	
NORMAN ZIMMERMAN & SON	9836		(*)					
GEORGE E GARNER	9838		(*)	(*)	(*)		(*)	
GLENN E HENRY	9841		(*)	(*)	(*)	(*)	(*)	
FRANCIS BONANNO PACKING CO	9842		(*)	(*)	(*)	(*)	(*)	
HUGHEY (BOBBY) WEYANDT III	9843		(*)	(*)	(*)	(*)	(*)	
PENNSYLVANIA STATE UNIV MEATS LABORATORY	9844		(*)	(*)	(*)		(*)	
CHARLES YOUNDT & SONS	9846		(*)				(*)	
FENTONS MEATS	9847		(*)	(*)	(*)		(*)	
COUNTRY BUTCHER SHOP	9848		(*)	(*)	(*)		(*)	
PALACE MARKET INC	9880		(*)	(*)			(*)	
CALIFORNIA STATE UNIV FRESNO MEAT LABORATORY	9892		(*)	(*)	(*)		(*)	
CAVALIER EXPORT CO	9910	E						(*)
COMMITTEE ON MASONIC HOMES	9913		(*)	(*)			(*)	
DONALD M SEIDLE	9921		(*)	(*)	(*)		(*)	
NEWPORT PACKING CO INC	9926		(*)	(*)	(*)	(*)		
METZGER MEAT	9927		(*)	(*)	(*)		(*)	
SCHALLER'S SLAUGHTERHOUSE	9955		(*)	(*)	(*)	(*)		
NASER PACKING CO	9958		(*)	(*)	(*)	(*)	(*)	
JOHN M BONHAM & SONS	9971		(*)	(*)	(*)		(*)	
AMOS BAWELL & SONS	9974		(*)	(*)	(*)		(*)	
MINOR ACRES PACKING CO	9983		(*)	(*)	(*)		(*)	
BECK-WHITE SLAUGHTER & PROCESSING	12600		(*)				(*)	
BARTOW MEAT PROC	12601		(*)				(*)	

[FR Doc. 79-21959 Filed 7-16-79; 8:45 am]
BILLING CODE 3410-37-C

DEPARTMENT OF COMMERCE

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Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324.

Patent 4,128,113: Double Plug Shuttle Valve; filed Aug. 27, 1976; patented Dec. 5, 1978; not available NTIS.

Patent 4,128,305: Catadioptric Objective; filed Apr. 14, 1977; patented Dec. 5, 1978; not available NTIS.

Patent 4,131,593: Low Infrared Emissivity Paints Comprising an Oxime Cured Silicone Binder; filed Oct. 13, 1977; patented Dec. 26, 1978; not available NTIS.

Patent 4,132,988: Radar Intrusion Detection System; filed Aug. 19, 1977; patented Jan. 2, 1979; not available NTIS.

Patent 4,135,169: Pre-TR High Power/Intermediate Power Stage Apparatus; filed Mar. 10, 1977; patented Jan. 16, 1979; not available NTIS.

Patent 4,135,185: RF Loop Intruder Detection System; filed Oct. 7, 1977; patented Jan. 16, 1979; not available NTIS.

Patent 4,135,296: Method of Joining a Fine Wire Filament to a Connector; filed Aug. 19, 1977; patented Jan. 23, 1979; not available NTIS.

Patent 4,135,298: Deformable Heat Transfer Fin; filed June 21, 1977; patented Jan. 23, 1979; not available NTIS.

U.S. Department of Agriculture, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent Application 974,170: Preparation of Protein Concentrates from Whey and Seed Products; filed Dec. 28, 1978.

Patent 4,136,169: Cross-Protective Fowl Cholera Bacterins; filed Feb. 24, 1978; patented Jan. 23, 1979; not available NTIS.

U.S. Department of Energy, Assistant General Counsels for Patents, Washington, D.C. 20545.

Patent Application 849,570: Wellbore Pressure Transducer; filed Nov. 8, 1977.

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U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent 4,090,135: Wireless FSK Technique for Telemetering Underground Data to the Surface; filed June 29, 1976, patented May 16, 1978; not available NTIS.

Patent 4,098,866: Recovery of Uranium from Refractory Cres; filed Apr. 15, 1977; patented July 4, 1978; not available NTIS.

Patent 4,104,132: Method for Eliminating Solution-Level Attack on Cathodes during Electrolysis; filed July 22, 1977; patented Aug. 1, 1978; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 6,001,031: Refractory Passivated Ion-Implanted GaAs Ohmic Contacts; filed Jan. 1, 1979.

Patent Application 943,255: Universal Tow Target Adapter; filed Sept. 15, 1978.

Patent Application 943,894: Gyrotron Travelling-Wave Amplifier; filed Sept. 19, 1978.

Patent Application 952,021: Connector Receiver for Pontoon Causeways; filed Oct. 16, 1978.

Patent Application 962,406: Hydrophone Preamplifier and Calibration Circuit; filed Jan. 5, 1978.

Patent Application 973,053: Shaft and Bore Misalignment Measurement Tool; filed Dec. 22, 1978.

Patent 4,108,400: Dual Mode Guidance System; filed Aug. 2, 1976; patented Aug. 22, 1978; not available NTIS.

Patent 4,110,697: Digital Bypassable Register Interface; filed Feb. 22, 1977, patented Aug. 29, 1978; not available NTIS.

Patent 4,110,715: Broadband High Pass Microwave Filter; filed July 27, 1977, patented Aug. 29, 1978; not available NTIS.

Patent 4,112,394: Method and Means of Link Coupling with Separate Control of Link Reactance and Coupling Coefficient; filed Jan. 3, 1977; patented Sept. 4, 1978; not available NTIS.

Patent 4,117,588: Method of Manufacturing Three Dimensional Integrated Circuits; filed Jan. 24, 1977; patented Oct. 3, 1978; not available NTIS.

Patent 4,117,967: Solder Extractor Apparatus: filed May 26, 1977; patented Oct. 3, 1978; not available NTIS.

Patent 4,126,033: Determination of Thermal Conductances of Bonding Layers in Infrared Photoconductor Arrays; filed June 23, 1977, patented Nov. 21, 1978; not available NTIS.

Patent 4,128,774: N Cycle Gated Periodic Waveform Generator; filed June 20, 1977; patented Dec. 5, 1978; not available NTIS.

Patent 4,131,392: Deployable Rotor; filed Jan. 31, 1977; patented Dec. 26, 1978; not available NTIS.

Patent 4,135,454: Safing a Flueric Cartridge Initiator; filed Sept. 14, 1977; patented Jan. 23, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent 4,135,921: Process for the Preparation of Rare-Earth-Silicon Alloys; filed Mar. 7, 1978; patented Jan. 23, 1979; not available NTIS.

Patent 4,120,694: Process for Purifying a Titanium-Bearing Material and Upgrading Ilmenite to Synthetic Rutile with Sulfur Trioxide; filed Sept. 6, 1977; patented Oct. 17, 1978; not available NTIS.

Patent 4,080,419: Foam Injection Leaching Process for Fragmented Ore; filed Dec. 10, 1976, patented Mar. 21, 1978; not available NTIS.

Patent 4,104,544: Current Limiting Circuit for Direct Current Power Supplies; filed Mar. 16, 1977, patented Aug. 1, 1978; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counseling for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent Application 6,002,925: A Method and Alloy for Making Electrical Connections to Conductive Thin Film; filed Jan. 12, 1979.

Patent Application 6,009,889: CCD Correlated Quadruple Sampling Processor; filed Feb. 6, 1979.

Patent Application 956,529: Cooled Echelle Grating Spectrometer; filed Oct. 31, 1978.

Patent Application 969,757: A Method and Technique for Installing Light-Weight Fragile High-Temperature Fiber Insulation; filed Dec. 15, 1978.

Patent Application 974,292: Preparation of Monotectic Alloys Having a Controlled Microstructure by Directional Solidification under Dopant-Induced Interface Breakdown; filed Dec. 29, 1978.

Patent Application 974,472: Thermal Barrier Pressure Seal; filed Dec. 29, 1978.

Patent Application 974,475: Digital Numerically Controlled Oscillator; filed Dec. 29, 1978.

Patent 4,135,019: Low Density Bisnaleimide-Carbon Microballoon Composites; Jan. 16, 1979; not available NTIS.

Patent 4,135,127: Direct Current Transformer; filed Mar. 29, 1977; patented Jan. 16, 1979; not available NTIS.

[FR Doc. 79-21973 Filed 7-16-79; 8:45 am]

BILLING CODE 3510-04-M

Office of Minority Business Enterprise

Financial Assistance Application Announcement

The Office of Minority Business Enterprise (OMBE) announces that it is seeking applications for 11 projects in various parts of the country, each of which will provide, at no cost to the public, direct general business information, counseling, financial packaging assistance and assistance in identifying and exploiting business opportunities in new and/or expanded markets.

Project Information: In the event an applicant decides to apply for more than one project, it must submit individual applications for each project. The 11 projects are as follows:

1. A project which is designed to operate in the Indianapolis, Indiana area for a 12-month period with a minimum professional staff effort of 9 manyears and a maximum funding level of $290,000. The number for this project is 05–60–15324–00.

2. A project which is designed to operate in the State of Kansas for a 12-month period with a minimum professional staff effort of 9 manyears and a maximum funding level of $215,000. The number for this project is 07–10–01206–00.

3. A project which is designed to operate in the Detroit, Michigan area for a 12-month period with a minimum professional staff effort of 9 manyears and a maximum funding level of $415,219. The number for this project is 05–10–01555–00.

4. A project which is designed to operate in the Milwaukee, Wisconsin area for a 12-month period with a minimum professional staff effort of 6 manyears and a maximum funding level of $171,639. The number for this project is 05–60–25762–00.

5. A project which is designed to operate in the Los Angeles, California area for a 12-month period with a minimum professional staff level of 17 manyears and a maximum funding level of $450,000. The number for this project is 09–60–50290–00.

A project which is designed to operate in the U.S.Virgin Island area for a 12-month period with a minimum professional staff level of 2 manyears and a maximum funding level of $85,000. The number for this project is 02–10–45172–00.

A project which is designed to operate in the southern part of Connecticut area for a 12-month period with a minimum professional staff level of 3 manyears and a maximum funding level of $100,000. The number for this project is 01–10–45052–00.

8. A project which is designed to operate in St. Louis, Missouri area for a 12-month period with a minimum professional staff level of 13 manyears and a maximum funding level of $320,501. The number for this project is 07–10–30000–00.

9. A project which is designed to operate in the State of Rhode Island and parts of eastern Massachusetts for a 12-month period with a minimum professional staff level of 3 manyears and a maximum funding level of $100,000. The number for this project is 01–10–45131–00.

10. A project which is designed to operate in the California counties of Napa, San Joaquin, Solano, and Sanoma for a 12-month period with a minimum professional staff level of 6 manyears and a maximum funding level of $150,000. The number for this project is 09–10–50330–00.

11. A project which is designed to operate in the Charlotte, North Carolina area for a 12-month period with a minimum professional staff effort of 5 manyears and a maximum funding level of $145,000. The number for this project is 04–10–30390–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Eligibility Requirements: Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by phone by calling Joyce Russman at (202) 377–1714 or it may be obtained at the following address: U.S. Department of Commerce, Office of Minority Business Enterprise, Program Support Staff, Room 5713, Box FR–2, 14th & Constitution Avenue NW., Washington D.C. 20230.

In requesting an application kit, specify the project number, the city or state the project will serve and if the applicant is either a State or Local Government, Federally recognized Indian Tribunal Unit, Educational Institution, Hospital, other type of nonprofit organization, or if the applicant is for-profit firm. This information is necessary to enable OMBE to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period of one year beginning September 1, 1979. Continuation awards may be made on a noncompetitive basis when determined by the Awards Officer to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of August 10, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: July 12, 1979.

Allan A. Stephenson,

Acting Director.

[FR Doc. 79–21686 Filed 7–16–79; 8:45 am]

BILLING CODE 3510–21–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed

to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324.

Patent 4,135,494: Over-Pressure Protection Device; filed Mar. 9, 1977, patented Jan. 23, 1979; not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 244,080: Fuel Control; filed Apr. 14, 1972.

Patent application 714,863: Cylindrical Radiant Energy Direction Device with Refractive Medium; filed Aug. 16, 1976.

Patent application 822,861: Twin Pack Hemodialyzer; filed Aug. 8, 1977.

Patent application 839,238: Laser-Induced Separation of Hydrogen Isotopes in the Liquid Phase; filed Oct. 4, 1977.

Patent application 841,775: Ceramic End Seal Design for High Temperature High Voltage Nuclear Instrumentation Cables; filed Oct. 13, 1977.

Patent application 844,084: Combined Compress Air Storage: Low Btu Coal Gasification Power Plant; filed Oct. 20, 1977.

Patent application 844,085: Solids Irradiator; filed Oct. 20, 1977.

Patent application 844,086: CF Sub 4 Laser; filed Oct. 20, 1977.

Patent 4,078,704: Coal Feed Lock; filed Dec. 21, 1976, patented Mar. 14, 1978; not available NTIS.

Patent 4,086,323: Process for Removal of Sulfur Compounds from Fuel Gases; filed June 21, 1977, patented Apr. 25, 1978; not available NTIS.

Patent 4,087,573: Adhesive Plasters; filed Sept. 26, 1975, patented May 2, 1978; not available NTIS.

Patent 4,087,905: Method of Preparing a Powdered Electrically Insulative Separator for Use in an Electrochemical Cell; filed Mar. 30, 1977, patented May 9, 1978; not available NTIS.

Patent 4,088,512: Quench-Age Method for the Fabrication of Niobium—Aluminum Superconductors; filed Jan. 21, 1977, patented May 9, 1978; not available NTIS.

Patent 4,088,553: Method for Separating Boron Isotopes; filed June 12, 1974, patented May 9, 1978; not available NTIS.

Patent 4,090, 875: Ductile Tungsten—Nickel-Alloy and method for Manufacturing Same; filed Oct. 1, 1973, patented May 23, 1978; not available NTIS.

Patent 4,091,077: Process for Recovering Filler from Polymer; filed Aug. 12, 1977, patented May 23, 1978; not available NTIS.

Patent 4,091,196: Method for Reproducibly Preparing a Low-Melting High-Carbon Yield Precursor; filed June 21, 1977, patented May 23, 1978; not available NTIS.

Patent 4,103,256: Azacoumarin Dye Lasers; filed May 25, 1976, patented July 25, 1978; not available NTIS.

Patent 4,103,257: Azacuinolone Dye Lasers, filed May 25, 1976, patented July 25, 1978; not available NTIS.

Patent 4,122,897: In situ Gasification Process for Producing Product Gas Enriched in Carbon Monoxide, and Hydrogene; filed Dec. 28, 1977, patented Oct. 31, 1978; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C streets, NW., Washington, D.C. 20240.

Patent application 942,833: Froth Flotation of Insoluble Slimes from Sylvinite Ores; filed Sept. 15, 1978.

Patent application 953,395: Process for Scavenging Iron from Tailings Produced by Flotation Beneficiation and for Increasing Iron Ore Recovery; filed Oct. 23, 1978.

Patent application 954,026: Induced Air Flow Self-Cleaning Spray Nozzle; filed Oct. 23, 1978.

Patent application 969,047: Precision Drafting Instrument. filed Dec. 13, 1978.

Patent application 969,767: High Coercive Force Rare Earth Metal-Cobalt Magnets Containing Copper and Magnesium; filed Dec. 15, 1978.

Patent application 969,768: Extraction of Tungsten from Ores; filed Dec. 15, 1978.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research Code 302, Arlington, Va. 22217.

Patent application 003,181: High Performance Solar Still; filed Jan. 15, 1979.

Patent application 815,327: Biopotential Movement Artifact Inhabiting System; filed July 13, 1978.

Patent application 928,218: Pulse Generator Utilizing Superconducting Apparatus; filed July 26, 1978.

Patent application 939,000: An Analog/Digital System for Evaluating Battery Characteristics; filed Aug. 30, 1978.

Patent application 957,126: High Speed Frequency Tunable Microwave Filter; filed Nov. 3, 1978.

Patent application 957,763: Diode Array Convolver; filed Oct. 31, 1978.

Patent application 967,749: Surface Acoustic Signal Defader; filed Dec. 6, 1978.

Patent application 970,584: Adaptive Slant Range Compensator for a Remote Optical Mapping System; filed Dec. 18, 1978.

Patent 4,062,105: Method for Fabricating Ferroelectric Ultrascopic Transducers; filed Dec. 20, 1976, patented Dec. 13, 1977; not available NTIS.

Patent 4,090,559: Heat Transfer Device; filed Aug. 14, 1974, patented May 23, 1978; not available NTIS.

Patent 4,102,574: Method and Means of Monitoring the Quality of a Fluid Dielectric; filed May 11, 1977; not available NTIS.

Patent 4,106,504: Portable Recompression Chamber with Air Scrubber; filed Dec. 6, 1976, patented Aug. 15, 1978; not available NTIS.

Patent 4,106,910: Ras-Gas Dilutior Device; filed Aug. 16, 1977, patented Aug. 15, 1978; not available NITS.

Patent 4,107,575: Frequency-Selective Loss Technique for Oscillation Prevention in Traveling-Wave Tubes; filed Oct. 4, 1976, patented Aug. 15, 1978; not available NTIS.

Patent 4,109,062: Submersible Battery Apparatus; filed Sept. 22, 1977, patented Aug. 22, 1978; not available NITS.

Patent 4,109,997: Optical Sliprings, filed Feb. 28, 1977, patented Aug. 29, 1978; not available NTIS.

Patent 4,110,977: Pyrogen Igniter Ramjet Ignition System; filed June 13, 1977, patented Sept. 5, 1978; not available NTIS.

Patent 4,111,602: Deployable Rotor; filed Jan. 31, 1977, patented Sept. 5, 1978; not available NTIS.

Patent 4,117,329: Room-Temperature, Thin-Film, PbS Photoconductive detector Hardened against Laser Damage; filed Apr. 22, 1977, patented Sept. 26, 1978; not available NTIS.

Patent 4,122,412: Magneto-Optically Tuned Lasers; filed Apr. 18, 1977, patented Oct. 24, 1978; not available NTIS.

Patent 4,123,697: Electrostatic High Potential System; filed July 5, 1977, patented Oct. 31, 1978; not available NTIS.

Patent 4,123,728: Electrogenerated Chemiluminescent (ECL) Laser; filed Nov. 1, 1976, patented Oct. 31, 1978; not available NTIS.

Patent 4,124,297: Ultrafast Scanning Spectrophotometer; filed July 25, 1977, patented Nov. 7, 1978; not available NTIS.

Patent 4,124,657: Room Temperature Cured Elastomer; filed Mar. 25, 1977, patented Nov. 7, 1978; not available NTIS.

Patent 4,130,821: Frequency-Agile Fire Control Radar System; filed Apr. 8, 1977, patented Dec. 19, 1978; not available NTIS.

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP–2, Washington, D.C. 20546.

Patent application 6,008,207: Dual Band Combiner for Horn Antenna; filed Jan. 31, 1979.

Patent application 6,008,209: Multifrequency Broadband Horn Antenna; filed Jan. 31, 1979.

Patent application 969,756: A Method of Making High Temperature Seals; filed Dec. 15, 1978.

Patent 3,626,114: Thermomagnetic Recording and Magnetic Optic Playback System; filed Mar. 10, 1969, patented Dec. 7, 1971; not available NTIS.

Patent 3,837,908: Manganese Bismuth Films with Narrow Transfer Characteristics for Curie-Point Switching; filed Nov. 1, 1972, patented Sept. 24, 1974; not available NTIS.

Patent 4,134,683: Multispectral Imaging and Analysis System; filed Mar. 5, 1976, patented Jan. 16, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent application 953,393: Process for Producing a Metastable Precursor Powder and for Producing Sialon from this Powder; filed Oct. 12, 1978.

[FR Doc. 79–21951 Filed 7–16–79; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF ENERGY

Cogeneration Technology Alternatives Study (CTAS); Meeting

Notice is hereby given that a briefing to the public on the results of the DOE-sponsored Cogeneration Technology Alternatives Study (CTAS) will be held on July 18, 1979, from 8:45 a.m. to 5:00 p.m. The briefing will take place in the Commerce Department Auditorium located on 14th Street between Constitution Avenue and E Streets in Washington, D.C.

The objectives of CTAS were to evaluate the relative attractiveness of various advanced technology systems for industrial cogeneration in the 1985–2000 time period and to assess the advantages of advanced technology. Advanced technology systems studied included those using steam turbines, open and closed cycle gas turbines, combined cycles, diesel engines, Stirling engines, phosphoric acid and molten carbonate fuel cells and thermionics.

Industrial cogeneration is the simultaneous production of electricity or shaft power and useful thermal energy at an industrial plant site. Cogeneration results for the various systems in CTAS were obtained for a wide variety of representative industrial plant requirements selected primarily from plants in the most energy consuming U.S. manufacturing industries; namely the chemical, primary metals, petroleum refining, paper, stone, clay and glass, and foods industries. Emphasis in the study was on the use of coal and coal-derived fuels. The study addressed providing the technical, economic and environmental results important to the comparison and evaluation of the advanced systems used for cogeneration. Examing the institutional issues of regulatory barriers which can impact the implementation of the cogeneration concept itself was not included in the scope of the effort.

CTAS, which began in October 1977, was managed by the NASA Lewis Research Center for DOE's Division of Fossil Fuel Utilization. Analyses were performed by two industrial contractor teams and by NASA in-house personnel. Parallel contracted studies with the General Electric Company ($853,770) and the United Technologies Corporation ($874,735) provided most of the data in the study. In addition, NASA has compared the contractor results and identified the major reasons for differences in results where they occurred.

For further information, contact Warren W. Bunker at 301/353–2824, Mail Station GTN E–178, Department of Energy, Washington, D.C. 20545.

Signed at Washington, D.C., on July 10, 1979.

John M. Deutch,

Acting Under Secretary.

[FR Doc. 79–21960 Filed 7–16–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Case No. 51209–3459–05–77]

Sabine Station Unit No. 5, Gulf States Utilities Co.; Request For Classification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On June 1, 1979, Gulf States Utilities Company (Gulf States) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Sabine Station Unit No. 5 as an existing facility pursuant to § 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620 (FUA). FUA imposes certain statutory prohibitions against the use of natural gas and petroleum by new and existing electric powerplants. ERA's decision in this matter will determine whether Sabine Station Unit No. 5 is a new or existing powerplant. The prohibitions which apply to existing powerplants are different from those which apply to new powerplants.

The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.26 of the Revised Interim Rule, no public hearings will be held.

DATES: Written comments are due on or before August 7, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, Phone: (202) 634–2170.

Charles A. Falcone, Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3?281, Washington, D.C. 20461, Phone: (202) 254–7450.

James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 7134, Washington, D.C. 20461, Phone: (202) 633–8814.

Robert L. Davies, Deputy Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration, 2000 M Street, NW., Room 3128L, Washington, D.C. 20461, Phone: (202) 254–7442.

SUPPLEMENTARY INFORMATION: Gulf States Utilities Company (Gulf States) is a corporation organized under the laws of the State of Texas. Gulf States supplies electric service in the coastal areas of Texas and Louisiana.

Gulf States stated that it issued purchase orders and executed contracts in 1974 and 1975 for the construction of a 480 MW, No. 6 residual fuel oil fired generating unit, to be known as Sabine Station Unit No. 5, Orange County, Texas, and that commercial operation is scheduled for October 15, 1979. On June 1, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, Gulf States requested that ERA classify Sabine Station Unit No. 5 as an existing facility.

In accordance with § 515.6 of ERA's Revised Interim Rule, a powerplant will be classified as existing if the cancellation, rescheduling or modification of the construction or acquisition of a powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability. Gulf States supported its request for classification by providing evidence on ERA Form 300A in support of their claim that their consumers would suffer a substantial financial penalty if Sabine Station Unit No. 5 were not permitted to proceed as an oil-burning facility.

A summary of the evidence requirements and Gulf States' response to those requirements follows:

Substantial financial penalty—Pursuant to § 515.6(a) of the Revised Interim Rule, ERA will classify a facility as existing upon a demonstration that at least 25 percent of the total projected project cost as of November 9, 1978, was expended in nonrecoverable outlays as of November 9, 1978.

In response to the evidence requirements of § 515.7(b)(1) of the Revised Interim Rule, Gulf States provided the following information:

Total projected cost on 11/9/78 were $126,099,000.

Total project expenditures on 11/9/78 were $104,929,000.

Total recoverable expenditures were $64,721,000.

Total claimed financial penalty (including obligation and cancellation charges as of 11/9/78) was $46,621,000 or 37 percent of total projected project cost.

There appears to be a reasonable likelihood that Sabine Station Unit No. 5 will be determined to be an existing facility. ERA hereby invites all interested persons to submit written comments on this matter.

The public file, containing Gulf States' request for classification and supporting materials, is available for inspection upon request at:

ERA Room B-110, 2000 M Street, NW., Washington, D.C. 20451, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on July 7, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels, Conversion, Economic Regulatory Administration.

[FR Doc. 79-22040 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. E-8624 and ER76-394]

Arizona Public Service Co.; Refund Report

July 11, 1979.

Take notice that Arizona Public Service Company on May 18, 1979 tendered for filing, pursuant to ordering paragraph D of the Commission's order dated November 21, 1978, a report of refunds made to its customers in the amount of $95,465.26, together with interest in the amount of $33,318.44.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-21016 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-491]

Columbus & Southern Ohio Electric Co.; Filing

July 11, 1979.

The filing Company submits the following:

Take notice that Columbus and Southern Ohio Electric Company on July 5, 1979, tendered for filing, Modification No. 1 to the Interconnection Agreement dated May 17, 1977 between Columbus and Southern Ohio Electric Company and the Ohio Edison Company designed Columbus and Southern Ohio Electric Company Rate Schedule FERC No. 27.

Section 1 of Modification No. 1 provides for an increase in the demand charge for Short Term Power from $0.60 to $0.70 per kilowatt per week and from $0.10 to $0.12 per kilowatt per day for periods less than one week. Section 2 provides for an increase in the demand charge for Limited Term Power from $3.25 to $3.75 per kilowatt per month.

Applicant states that there were no Limited Term Power transactions between the companies during the 12 month period ending December, 1978. Furthermore, since the use of Limited Term Power Service cannot be accurately estimated, it is not possible to estimate the increase in revenues resulting from the Modification. Applicant further states that there were no Short Term Sales by Ohio Edison to Columbus and Southern Ohio Electric Company during the 12 month period ending December, 1978. There were Short Term sales by Columbus and Southern Ohio Electric Company to Ohio Edison which, under the proposed rate schedule, would have resulted in increased revenue to Columbus and Southern Ohio Electric Company in the amount of $259,428.57. Applicant's supporting documents which were filed with this modification indicate that the proposed increased rates reflect an increase in costs associated with supplying energy.

Copies of the filing were served upon the Ohio Edison Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protest should be filed on or before July 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22017 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-182]

Commonwealth Edison Co.; Compliance Filing

July 11, 1979.

Take notice that Commonwealth Edison Company on June 28, 1979, tendered for filing, in compliance with the Order of the Federal Energy Regulatory Commission entered in this Docket on March 30, 1979, Revised FERC Electric Tariffs No. 1 through 1C, Rate 78, Wholesale Service, and No. 12, Rider 20 Fuel Adjustment Applicable to Rate 78, along with additional cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practices and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22018 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-494]

The Connecticut Light and Power Co.; Filing

July 11, 1979.

The filing Company submits the following:

Take Notice that on July 6, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing an initial rate

schedule of an exchange agreement (the Agreement) between CL&P, The Hartford Electric Light Company (HELCO), and Western Massachusetts Electric Company (WMECO), (the NU Companies) and Boston Edison Company (EDISON). The Agreement, dated as of March 20, 1978, provides for the NU Companies to exchange capacity in the Northfield Mountain Pumped Storage Project (the Project) for various intermediate fossil steam generating units on the EDISON system (the Intermediate Units).

The Agreement provides that the parties will determine prior to 7:00 a.m. on Monday of each week during the Term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week.

The NU Companies will pay capacity and energy charges to EDISON in an amount equal to the kilowatts of capacity exchanged for each hour during the week times $0.0220, subject to a pro rata deduction for any hour during which the NU Companies call for receipts from EDISON and the EDISON is unable to meet such demands. The NU Companies will purchase energy from the Intermediate Units at the average cost of providing such energy, which is included in the above charge. EDISON will pay to the NU Companies' a pro-rated station service charge associated with the Project, for those hours during the exchange period when none of the Project's units are in operation.

CL&P requests an effective date of March 20, 1978 for the Agreement.

HELCO, WMECO, and EDISON have filed certificates of concurrence in this docket.

The Agreement has been executed by the NU Companies and by EDISON and copies have been mailed to each of them.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest for the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 31, 1979. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22019 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-22]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

July 10, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on July 5, 1979, tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1, Rate Schedule GSS. The proposed changes, shown on First Revised Sheet No. 32, to be effective thirty days from the date of filing, reflect certain language changes necessary to ensure that the certificated storage capacities of GSS customers are not inadvertently altered by reason of Consolidated's conversion from a volumetric to a dekatherm system of measurement. No change in service or rate level is proposed.

Consolidated requests a waiver of any of the Commission's Rules and Regualtions as may be deemed necessary by the Commission to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional GSS customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22020 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-22]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

July 10, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on June 29, 1979 tendered for filing Fourteenth Revised Sheet No. 16 to its FERC Gas Tariff, Third Revised Volume No. 1. The tariff sheet is proposed to become effective, subject to refund, on July 1, 1979. Consolidated proposes that the rates shown on Fourteenth Revised Sheet No. 16 be approved in lieu of the rates filed December 29, 1978, which were suspended until July 1, 1979.

Consolidated states that Fourteenth Revised Sheet No. 16 is filed to comply with the Commission's order of January 30, 1979, specifically Ordering Paragraphs (C) and (E).

Consolidated also tendered for filing Alternate Fourteenth Revised Sheet No. 16 to its FERC Gas Tariff, Third Revised Volume No. 1 for the same effective date. The alternate sheet reflects the pricing of Consolidated's own production from wells drilled prior to 1/1/73 on leases acquired prior to 10/8/69 on a cost of service basis. The issue as to the proper rate treatment of Consolidated's own production is before the Commission on application for rehearing of its January 30, 1979 order.

Consolidated also filed a Motion to make effective the following tariff sheets as contained in its original filing of December 29, 1978.

Third Revised Volume No. 1

First Revised Sheet Nos. 1, 13–15, 17, 22–30, 37–40, 50, 75–77, 111, 115 and 130
Second Revised Sheet No. 68
Third Revised Sheet No. 71

Original Volume No. 2

Original Sheet Nos. 260–B and 260–C
First Revised Sheet No. 270–A
Second Revised Sheet No. 272–B
Third Revised Sheet Nos. 260 and 265
Fourth Revised Sheet Nos. 266 and 268–270
Fifth Revised Sheet No. 267
Sixth Revised Sheet No. 272–A
Seventh Revised Sheet No. 271
Ninth Revised Sheet No. 272

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR Sections 1.8 and 1.10). All such petitions or protests should be filed on or before July 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22021 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-77]

Mississippi River Transmission Corp.; Tariff Filing

July 10, 1979.

Take notice that, on July 5, 1979, Mississippi River Transmission Corporation ("MRTC") tendered for filing the following listed sheets to its F.E.R.C. Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 27M
Original Sheet No. 27N

MRTC states that the sole purpose of the instant tariff filing is to provide for recovery of the Louisiana First Use Tax ("LFUT") on natural gas pursuant to Section 154.28(h) of the Commission's Regulations.

MRTC requests waiver of Sections 154.22 and 154.28(h)(2) through (5)(ii) of the Commission's Regulations so as to permit the tendered tariff sheets to become effective on July 24, 1979 on less than thirty days notice. It states that it was unable to comply with the filing date of March 15, 1979 specified in Section 154.28(h) of the Commission's Regulations because it was not until subsequent to such date that it had reason to believe that it was subject to the LFUT.

Good cause has been shown to provide for a shortened notice with respect to the instant filing.

Any person desiring to be heard or to make any protest with reference to said filing should on or before July 23, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22022 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-493]

Montaup Electric Co.; Filing

July 11, 1979.

The filing Company submits the following:

Take notice that Montaup Electric Company ("Montaup") on July 5, 1979, tendered for filing an amended Exhibit A to Supplement No. 8 to Montaup's Rate Schedule FPC No. 36 for service to the Middleboro Municipal Gas and Electric Department ("Middleboro"). The amendment will, on an annual basis, decrease by $9,888 the charge paid by Middleboro for non-firm transmission service over the 115 kV radial line connecting Montaup and Middleboro.

The existing charge to Middleboro is based on 1977 costs. The amended Exhibit A is based on 1978 costs. Montaup has requested a January 1, 1979, effective date for the new rate.

Copies of the filing have been served on Middleboro and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before July 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22023 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-574]

Mountain Fuel Supply Co.; Petition To Amend

July 3, 1979.

Take notice that on April 18, 1979, Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-574 a petition to amend the order issued October 26, 1977 in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and continued operation of 817 feet of 3-inch lateral in lieu of the authorized 700 feet of 2-inch lateral and actual expenses of $9,564, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Mountain Fuel asserts that it had requested construction and operation of a 3-inch gas supply tap and appurtenant facilities on its main transmission lines near Granger, Wyoming, and 2-inch lateral from the Bruff Unit Well No. 5 to receive gas from such well.

On October 26, 1977, the Commission issued an order authorizing the said construction and operation; however, due to the onset of winter and delays incurred in obtaining federal rights-of-way the lateral to the well and appurtenant valves and metering could not be constructed until the following summer. The facilities were finally placed in service on September 12, 1978.

Mountain Fuel asserts that during final survey and construction of the lateral, minor modifications had to be made in the proposed alignment, which together with fluctuations in ground elevation, added 117 feet to the overall lateral length. The detailed engineering of the project also indicated that the proposed valving was inadequate, both as to the valve types and the number of valves required.

Furthermore, Mountain Fuel states that the detailed engineering of the project indicated the need to install a 3-inch lateral to handle adequately the expected production from the Bruff Well No. 5 and any other wells which might be drilled in the immediate vicinity of the proposed facilities; however, neither the engineering department nor the legal department, which must approve final construction plans for legal sufficiency,

noticed that both the application and the Commission's order specified a 2-inch lateral. Thus, 817 feet of 3-inch lateral were actually constructed, and the error was not noticed until work on the Statement of Cost of Construction was commenced, it is further stated.

As a result, Mountain Fuel asserts that the actual expenditures for this project totalled $9,564, as opposed to the initial estimate of $4,500 with the excess costs relating primarily to the valving and lateral size differences.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to interene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-22013 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-492]

New Bedford Gas and Edison Light Co., et al.; Filing of Supplemental Data

July 11, 1979

Take notice that on July 3, 1979, New Bedford Gas and Edison Light Company ("New Bedford") tendered for filing on behalf of itself, Montaup Electric Company, and Boston Edison Company supplemental data pertaining to their applicable gross investments, combined Federal income and franchise tax rates, and local tax rates for the twelve month periods ending December 31, 1977 and December 31, 1978. New Bedford states that this supplemental data is submitted pursuant to a letter order of the Federal Power Commission in Docket No. E-7981 dated April 26, 1973 accepting for filing New Bedford's Rate schedule FERC No. 21, Boston Edison Company's Rate Schedule FERC No. 67, and Montaup Electric Company's Rate Schedule FERC No. 27.

New Bedford states that these rate schedules have previously been similarly supplemented for the calendar years 1972 through 1976.

Any person wishing to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22024 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-51]

Pacific Power & Light Co.; Application

July 11, 1979.

Take notice that on June 27, 1979, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authority to negotiate for the private placement of up to $50 million of its Serial Preferred Stock.

The net proceeds from the sale of the securities will be used to finance, in part, the Company's 1979 construction program and to repay short-term debt.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make and protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The applications is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22025 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-490]

Public Service Co. of Indiana, Inc.; Filing

July 11, 1979.

The filing Company submits the following: Take notice that Public Service Company of Indiana, Inc. on July 3, 1979, tendered for filing an Agreement for Supply of Temporary Electric Service between the Town of Edinburgh, Indiana and Public Service Company of Indiana, Inc.

Said Agreement provides for the temporary supply of electric service to a retail customer of the Town of Edinburgh, which such retail customer is not electrically connected to the present distribution system of the Town of Edinburgh. Public Service Company of Indiana, Inc. has requested waiver of the filing requirements of Part 35.11 of the Regulations under the Federal Power Act in order that the service commencement date of such temporary electric supply be May 21, 1979.

A copy of the filing was served upon the Town of Edinburgh, Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before July 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22026 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-324]

Public Service Co. of Indiana, Inc.; Order Suspending Cancellation of Schedule, Denying Waiver of Notice and Establishing Procedures

Issued: June 29, 1979.

On April 23, 1979, Public Service Company of Indiana, Inc. (PSCI), tendered for filing a Notice of Cancellation of its Fuel Conservation Power and Energy Service schedule (service schedule F.) PSCI's Conservation schedule is applicable to its Interconnection Agreement dated February 21, 1964, between Indiana and Michigan Electric Company (I&M) and PSCI. PSCI requests that this Commission waive its 60-day notice requirement pursuant to § 35.11 of the Commission's Rules and Regulations and establish an effective expiration date of December 31, 1974, when the conservation schedule expired by its own terms. PSCI has filed no superceding conservation schedule

Notice of the filing was issued on April 26, 1979, with comments, protests or petitions to intervene due on or before May 18, 1979. No comments, protests, or petitions to intervene have been filed. On May 2, 1979, I&M filed a certificate concurring with PSCI's filing.

In a recent order, this Commission consolidated proceedings in a number of dockets for purposes of establishing "comprehensible and comprehensive interchange arrangements under which crisis-related transactions should take place." [1] Our concern over rates to be used during emergency situations has prompted us to designate an officer to conduct an investigation into transactions related to the coal strike as well as the use of coal-by-wire conservation schedules.

In light of our concerns regarding energy conservation rates, the Commission finds that PSCI's proposed cancellation of its energy conservation rate schedule may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. The Commission further finds that good cause has not been shown to allow waiver of notice requirements pursuant to § 35.11 of the Commission's Rules and Regulations. Therefore, the Commission will suspend cancellation of Service Schedule F for five months for purposes of investigating whether the cancellation is just and resonable, including what plans I&M and PSCI have for future energy conservation transactions.

The Commission Orders:

(A) PSCI's proposed cancellation of Service Schedule F is suspended for five months to become effective December 1, 1979.

(B) PSCI's request for waiver of notice requirement pursuant to § 35.11 is hereby denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and resonableness of the service change proposed by the Public Service Company of Indiana in this proceeding.

(D) An Administrative Law Judge shall be designated by the Chief Administrative Law Judge for purposes of convening a conference in this proceeding. Such conference shall be held within 30 days of issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Law Judge is authorized to established all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedures.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By The Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22014 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Order Consolidating Proceedings And Providing For Prehearing Conference, *Indiana and Michigan Electric Company, et. al,* Docket Nos. ER78-229, *et. al.,* Issued May 14, 1979. (p. 3)

[Docket No. EL79-18]

Public Service Co. of New Mexico; Petition for Declaratory Order

July 3, 1979.

Take notice that on May 15, 1979, Public Service Company of New Mexico (PSCNM) filed a petition pursuant to 18 CFR § 1.7(c) (1978), requesting that the Commission issue an order determining its jurisdiction over PSCNM's proposed Seboyeta Pumped Storage Project. The project would be located on an unnamed arroyo about four miles north of the Rio Moquino in Valencia County, New Mexico. Correspondence concerning the petition should be addressed to: Mr. C.D. Bedford, Vice President, Public Service Company of New Mexico, P.O. Box 2267, Albuquerque, New Mexico 87103; Richard B. Cole, Esq., Keleher & McLeod, P.A., P.O. Drawer AA, Albuquerque, New Mexico 87103.

The proposed project would include upper and lower reservoirs, a water conduit between the reservoirs, an underground powerhouse with four 150-MW units, a water conduit about 10 miles long connecting the lower reservoir to a groundwater source, a switchyard, a transmission line, and associated electircal equipment. The lower reservoir would have a surface area of about 158 acres and would be formed by a rock-filled dam with an impervious core. The upper reservoir would have a surface area of about 142 acres and would be formed by a rock-filled dike.

The water for the project would be obtained from a uranium mine, known as the Bokum Resources Marquez Mine. Power from the proposed project would be used in PSCNM's system with excess power being sold to, or exchanged with other utilities in the area.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1978).

In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before August 20, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-23015 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EF79-4051]

Southwestern Power Administration; Filing

July 11, 1979.

Take notice that the Assistant Secretary for Resource Applications of the Department of Energy, by Rate Order No. SWPA 3, confirmed and approved on an interim basis, effective July 1, 1979, the extension of transmission Schedule TDC (Revised) for transmission and/or displacement of non-federal power and energy over the system of Southwestern Power Administration (SWPA) for a period ending June 30, 1980.

The interim extension of approval of transmission Schedule TDC (Revised) is submitted to the Commission for confirmation and approval on a final basis pursuant to the authority vested in the Commission by Delegation Order No. 0204-33.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22027 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-29]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application To Withdraw Rate Increase Filing

July 10, 1979.

Take notice that on July 3, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed an application to withdraw its rate increase filing of January 29, 1979, in Docket No. RP79-29.

Tennessee states that siginficant changes in the circumstances underlying the proposed increase in rates have occurred since its original filing in this proceeding, including (1) a reduction in the estimated additions to its plant in service, (2) a reduction in the projected increases in costs for transportation and compression by other companies, and (3) sales volumes greater than anticipated. In view of the foregoing, Tennessee states that the revenue deficiency projected in Docket No. RP79-29 is significantly less than anticipated and, further, that its prosecution is no longer required nor is it in the public interest. Tennessee states that it has therefore applied for withdrawal of the rate increase in Docket No. RP79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that persons who have previously intervened in Docket No. RP79-29 need not file a further petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22028 Filed 7-16-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180335; FRL 1274-9]

Connecticut Department of Environmental Protection; Issuance of Specific Exemption To Use Permethrin To Control Colorado Potato Beetle on Potatoes

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

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Connecticut Department of Environmental Protection (hereafter referred to as the "Applicant") to use permethrin on 2,000 acres of potatoes for the control of the Colorado potato beetle in Connecticut. The specific exemption expires on October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Reponse Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2601. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The potato beetle is perhaps the best known beetle in the United States. Both the larvai and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield. Although Guthion, Imidan, methoxychlor, Monitor, parathion, Furadan, and Thiodan are registered for use on potatoes to control this pest, the Applicant claims that these pesticides are unsatisfactory for Colorado potato beetle control due to pesticidal resistance. Temik is registered for an at planting use and will only control beetles at planting and their first brood. Last year Vydate was registered for control of the beetle on potatoes; however, data indicates that Vydate is effective against the larvai only, not the adult, and that it is not so effective as permethrin. The Applicant estimates a loss of one million dollars due to the Colorado potato beetle, if an effective program is not carried out.

The Applicant initially requested permission to use only the permethrin product manufactured by ICI Americas, Inc. under the trade name Ambush, but later amended that request to include the use of Pounce, manufactured by FMC Corp., at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre per application, using ground equipment, and observing a 7-day pre-harvest interval. State-certified private or commercial applicators will make a maximum of eight applications. Data submitted for this use indicate that permethrin is effective against the Colorado potato beetle (adult and larvae) at the proposed rate.

EPA had determined that residues of permethrin on potatoes would not be expected to exceed 0.1 part per million (ppm) as a result of the proposed use provided that not more than eight applications of Ambush or Pounce are made a 7-day pre-harvest interval is observed. This residue level has been judged to be adequate to protect the public health. Since permethrin is highly toxic to bees and aquatic vertebrates and invertebrates, appropriate restrictions have been imposed. This use

of permethrin is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Colorado potato beetle has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control the Colorado potato beetle in Connecticut; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the Colorado potato beetle is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticides noted above until October 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ambush (EPA Reg. No. 10182–3) and Pounce (EPA Reg. No. 279–3014) may be applied;

2. Permethrin may be applied at a rate of 0.1 to 0.2 pound a.i. per acre;

3. A maximum of of eight applications of permethrin may be made with a pre-harvest interval of seven days;

4. A maximum of 2,000 acres may be treated;

5. A maximum of 3,200 pounds of permethrin may be applied;

6. Applications may be made with ground equipment only;

7. Spray mixture volumes of 20–100 gallons of water per acre may be applied;

8. Applications will be made by State-certified private or commercial applicators;

9. Permethrin is toxic to fish, birds, and other wildlife. It must be kept out of any body of water. It may not be applied where run-off is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

10. In order to minimize spray drift, the following restriction will be observed for applications of permethrin: a buffer zone of 200 feet (horizontal distance) between treated areas and aquatic areas will be observed;

11. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Potatoes treated according to the above provisions will not have residues of permethrin in excess of 0.1 ppm. Potatoes with residues of permethrin which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. A 60-day crop rotation restriction is imposed;

14. The EPA will be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by March 31, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: July 10, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22063 Filed 7-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1274-8]

Draft Reports on Coal Price Forecasts for Ohio Utilities and on Utility Rate Impacts of Applying Section 125 of the Clean Air Act in Ohio; Notice of Availability

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of availability of draft reports on coal price forecasts for certain Ohio utilities and on utility rate impacts of implementing Section 125 of the Clean Air Act in Ohio.

SUMMARY: Notice is hereby given that the U.S. Environmental Protection Agency has made available for public review two draft reports prepared in connection with its proceedings under Section 125 of the Clean Air Act. The first report is entitled "Draft Final Report: Coal Price Forecasts for the Ohio Section 125 Study." The second report is entitled "Economic and Financial Implications of Applying Section 125 of the Clean Air Act to Selected Ohio Electric Utilities."

The reports were prepared as part of a comprehensive coal market, engineering, economic and financial analysis undertaken by EPA in response to petitions from Senator Metzenbaum of Ohio, the State of Ohio, the United Mine Workers of America, District 6 and the Ohio Mining and Reclamation Association to institute proceedings under Section 125 of the Clean Air Act as amended August 1977 (42 U.S.C. 7425) in Ohio. Notice of Proceedings under Section 125 of the Clean Air Act was published July 13, 1978 (42 FR 30113). A proposed determination under subsection 125(a) of the Act was published December 28, 1978 (43 FR 60652, 44 FR 12103).

The coal price forecast study estimates the price of coal for selected Ohio utilities using alternative compliance strategies for sulfur dioxide emission limitations. The economic and financial impact study presents costs to the utility and consumer of alternative compliance strategies of five Ohio utilities that were considered under EPA's Section 125 proceedings. The reports are in draft form and constitute EPA's preliminary analyses prepared in anticipation of possible subsection 125 (b) and (c) rules or orders.

The reports are being made available to the public because EPA has received many requests from parties with an interest in the Ohio Section 125 proceedings.

Copies of the reports are available for public inspection and copying during normal business hours at the following locations: (1) Air Programs Branch, Air and Hazardous Materials Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604; (2) U.S. Environmental Protection Agency, Public Information Reference Unit, rm: 2922, 401 M Street SW., Washington, D.C. 20460; (3) Cleveland Public Library, Main Branch 325 Superior Avenue, Cleveland, Ohio 44115; (4) Columbus Public Library, Main Branch, 96 South Grant, Columbus, Ohio 43215; (5) St. Clairsville Public Library, 108 West Main Street, St. Clairsville, Ohio 43950.

Copies of the two draft reports as well as information concerning this notice may be obtained from: F. J. Biros, Chief Technical Support Branch, Division of Stationary Source Enforcement, EN–341, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755–2560.

Dated: July 2, 1979.

David R. Andrews,

Legal Counsel and Special Assistant To The Deputy Administrator.

[FR Doc. 79-22062 Filed 7-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-00099A; FRL 1274-1]

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Addition to Agenda

An addition has been made to the agenda for the two-day open meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel meeting to be held on July 19, and 20, 1979. Notice of this meeting was published in the Federal Register on July 3, 1979 (44 FR 39024). Agenda item number 2 under SUPPLEMENTARY INFORMATION becomes number 3. Item number 2 is changed to read as follows:

2. Review of Guidelines for Registering Pesticides in the United States, Subpart F, Hazard Evaluation: Humans and Domestic Animals (two additional sections on Good Laboratory Practices).

For further information contact Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 801, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia 20460, Telephone: 703-557-7560.

(Section 25(d) of FIFRA, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770)).

Dated: July 10, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22057 Filed 7-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180334; FRL 1274-2]

New Jersey Department of Environmental Protection; Issuance of Specific Exemption To Use Cyhexatin To Control Two-Spotted Spider Mites on Eggplants

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

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use a total of 800 pounds of cyhexatin to control the two-spotted spider mite on 1,000 acres of eggplants in New Jersey. The specific exemption expires on October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, two-spotted mites cause considerable damage to the eggplant crop; mites pierce the leaf epidermis with their mouth parts and suck sap, initially causing the leaf to appear stippled with yellow spots. Heavy infestations result in yellow-colored leaves that eventually become non-productive and drop from the plant causing loss in plant vigor and crop yield reduction. Hot and dry weather accelerates mite build-up.

According to the Applicant, mite resistance to EPA-registered products, such as ethion, naled, malathion, and mevinphos, has caused these products to be ineffective. The Applicant further claims that although carbophenothion and oxydemetonmethyl are EPA-registered and somewhat effective, the pre-harvest interval of seven days is incompatible with harvesting every three to four days. The Applicant estimates that the eggplant industry in New Jersey could suffer a loss as high as $125,000, without the use of cyhexatin.

The Applicant proposes to use a maximum of 1,600 pounds of Plictran 50W Miticide, a cyhexatin formulation manufactured by Dow Chemical Company, EPA Reg. No. 464-393. State-certified private or commercial applicators will make a maximum of four applications by air or ground at a rate of 0.2 pound active ingredient (a.i.) per acre.

EPA has found that adequate data are available to support the request. Permanent tolerances for cyhexatin have been established in a range from 0.05 part per million (ppm) to 60 ppm. Residue data indicate that residues of cyhexatin and its organotin metabolite under this use would not be expected to exceed 0.5 ppm. This residue level has been judged adequate to protect the public health. EPA has imposed a three-day preharvest interval.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of two-spotted spider mites on eggplants has occured or is likely to occur; (b) resistance has developed to the pesticides presently registered and available for use to control this pest in New Jersey; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Plictran 50W Miticide, EPA Reg. No. 464-393, manufactured by Dow Chemical Company, is authorized;

2. Applications may be made by ground or air at a rate of 0.2 pound Cyhexatin per acre;

3. A maximum of 1,000 acres of eggplant crop may be treated;

4. A maximum of 1,600 pounds Plictran 50W may be applied;

5. A maximum of four applications may be made and a preharvest interval of three days shall be observed;

6. Applications shall be made by State-certified private or commercial applicators;

7. Eggplants with a residue level of cyhexatin not exceeding 0.5 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. All applicable directions, precautions and restrictions on the product label must be followed;

9. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this use;

10. The Applicant shall be responsible for ensuring that all provisions of this specific exemption are followed; and

11. A final report summarizing the results of this program shall be submitted to EPA by March 1, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: July 10, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22056 Filed 7-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1274-4]

Region I; Approval of PSD Permit to FlexCon Company, Inc.

Notice is hereby given that on May 31, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to FlexCon Company, Inc. for approval to construct a pressure-sensitive adhesive coater with a gas-fired incinerator at their facility in Spencer, Massachusetts. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations applicable to the new facility subject to certain conditions including all requirements of the conditional permit issued by the Massachusetts Department of Environmental Quality Engineering.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before September 17, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.
Department of Environmental Quality Engineering, Air and Hazardous Materials Division, 600 Washington Street, Boston, Massachusetts 02111.

Dated: July 10, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-22055 Filed 7-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL-1275-1 OPP-30000/26D]

Preliminary Determination Concerning the Rebuttable Presumption Against Registration of Certain Uses of Pesticide Products Containing 2,4,5-Trichlorophenoxyacetic Acid (2,4,5-T); Hearing; Availability of Position Document

I. Introduction

On April 11, 1978, the Environmental Protection Agency (EPA) issued a notice of rebuttable presumption against registration and continued registration (RPAR) of all pesticide products containing the herbicide 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T) (43 FR 17116, April 21, 1978). Issuance of the RPAR initiated the Agency's public review of the registered uses of 2,4,5-T and the uses for which applications for registration are pending. Subsequently, on February 28, 1979, the Administrator ordered the emergency suspension of the use of 2,4,5-T on forests, rights-of-way, and pastures (suspended uses), thereby terminating the RPAR review as to these uses of 2,4,5-T (44 FR 15874, March 15, 1979).[1]

The RPAR review of the 2,4,5-T uses which were not subject to the suspension orders (non-suspended uses) continued. The non-suspended uses of 2,4,5-T include rice, rangeland and non-crop uses.[2] This notice constitutes the Agency's Notice of Determination (Notice) pursuant to 40 CFR 162.11(a)(5), concerning the RPAR review of the non-suspended uses of 2,4,5-T.

In broad summary, the Agency has determined that the two risk presumptions upon which the 2,4,5-T RPAR was based have not been rebutted. The risks to humans of oncogenic, fetotoxic, and teratogenic effects are of sufficient concern to require the Agency to consider whether offsetting economic, social or environmental benefits exist.

The Agency has considered benefits information which pesticide registrants, the U.S. Department of Agriculture, and other interested parties submitted in response to the RPAR, and has analyzed the economic benefits of the non-suspended uses of 2,4,5-T. The Agency has weighed risks and benefits together in order to determine whether the risks of each use are warranted by the benefits of the use.

With respect to the non-suspended uses of 2,4,5-T, the Agency has determined: (1) that these uses appear generally to cause unreasonable adverse effects on the environment, (2) that there are uncertainties in the data relating to the risks and benefits of these uses, (3) that additional data on the risks and benefits of the non-suspended uses of 2,4,5-T will permit the Agency to determine whether or not to cancel the registrations for these uses, and (4) that such information can be acquired through a public hearing pursuant to section 6(b)(2) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq. (FIFRA).*

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted to the Agency during the rebuttal phase of the 2,4,5-T RPAR, and the Agency's reasons and factual bases for the regulatory action it is initiating. The Notice is organized into four sections. Section I is this introduction. Section II sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's determinations concluding the RPAR for the non-suspended uses of 2,4,5-T and initiating the regulatory actions which flow from these determinations. Section IV provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

A. General

In order to obtain a registration for a pesticide under the FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment (FIFRA, section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with widespread and commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration (*e.g.*, registrants, users) and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the

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[1] Data and analyses developed in connection with the RPAR review led the Administrator to issue these emergency suspension orders and related notices of intent to cancel the suspended uses of 2,4,5-T. Suspension hearings commenced on April 19, 1979, but were discontinued on May 15, 1979 after all registrants withdrew from the hearings. The first pre-hearing conference for the cancellation proceedings was held on June 5, 1979; the formal evidentiary hearing will probably begin in the fall.

[2] The non-crop uses of 2,4,5-T include use at the following sites: airports; fences, hedgerows (not otherwise included in suspended uses, e.g., rights-of-way, pasture); lumber yards; refineries; non-food crop areas; storage areas; wastelands (not otherwise included in suspended uses, e.g., forestry); vacant lots; tank farms; industrial sites and areas (not otherwise included in suspended uses, e.g., rights-of-way).

pesticide no longer satisfies the statutory standard for registration.

B. The RPAR Process

The Agency created the rebuttable presumption against registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for the gathering and evaluation of information about the risks and benefits of these uses. The structure permits public participation at major points in the evaluation process.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to man or animals or plants of concern with regard to the adverse effect in question. Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the RPAR risk presumptions have been rebutted. If the Agency determines that the presumption is not rebutted, it considers information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency and other benefits information known to the Agency. After weighing the risks and the benefits of a pesticide's use, the Agency may conclude the RPAR process either by issuing a notice of intent to cancel or deny registration(s), pursuant to FIFRA sections 6(b)(1) and 3(d)(1), or by issuing a notice of intent to hold a hearing to determine whether the registration(s) should be cancelled or applications for registration(s) denied, pursuant to FIFRA section 6(b([2).

C. Notices of Intent To Cancel or To Hold a Hearing

FIFRA provides two mechanisms for instituting proceedings to cancel pesticides. The Administrator may issue a notice of intent to cancel a pesticide and offer registrants and other affected persons an opportunity to request a hearing. (FIFRA, section 6(b)(1)). Alternatively, the Administrator may issue a notice of intent to hold a hearing to determine whether or not the pesticide should be cancelled. (FIFRA, section 6(b)(2)).

The judgment of whether to issue a FIFRA section 6(b)(1) or a section 6(b)(2) notice is within the sole discretion of the Administrator (or his duly designated delegatee). If the Administrator determines that the risks of a pesticide use appear to outweigh its benefits, he may issue a notice of intent to cancel pursuant to FIFRA section 6(b)(1). If, however, the Administrator's judgment concerning the risks and benefits of a pesticide's use is only tentative, the Administrator may issue a notice under FIFRA section 6(b)(2) declaring his intention to hold a hearing "to determine whether or not its registration should be cancelled." (FIFRA, section 6(b)(2)).

D. External Review

The statute requires the Agency to submit notices issued pursuant to FIFRA section 6 to the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy (FIFRA, Section 6(b)). The Agency is required to submit these documents to the Secretary of Agriculture at least 60 days before making the notice effective by sending it to registrants or making it public. If the Secretary of Agriculture comments, in writing, within 30 days after receiving the notice, the Agency is required to publish the comments and the Administrator's responses to them along with publication of the notice. FIFRA also requires the Administrator to submit FIFRA section 6 notices, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture, to the Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment. (FIFRA, section 25(d)).

Although not required to do so under FIFRA, the Agency has determined that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps are taken to make copies of the Position Document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the **Federal Register**, and by other means. Registrants and other interested persons are allowed the same period of time to comment—30 days—that FIFRA provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

E. Final Notices

The determination to issue a FIFRA section 6 notice is a preliminary determination, pending external review and Agency analysis of comments received. On the basis of these comments, the Agency may withdraw the notice, issue a final notice without modification, or modify the notice, as appropriate.

After complying with these external review requirements and, if the notice is not withdrawn, accomplishing any changes in the contemplated action which are deemed appropriate as a result of any comments received, the Agency implements the desired regulatory action by sending and making public a notice of intent to cancel under FIFRA section 6(b)(1) or a notice of intent to hold a hearing under FIFRA section 6(b)(2). If related hearings are in progress, the Agency may move to consolidate proposed FIFRA section 6(b) propceedings with such ongoing FIFRA proceedings. Hearings are governed by the Agency's rules of practice for hearings under FIFRA section 6 [40 CFR 164]. At the end of the hearing, the Administrator issues his final decision regarding cancellation, which may include an order cancelling some or all uses.

III. Determinations and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the non-suspended uses of 2,4,5-T, including information submitted by registrants and other interested persons in rebuttal of the 2,4,5-T RPAR. The Agency has also considered information on the economic benefits of the non-suspended uses of 2,4,5-T, including benefits information submitted by registrants and other interested persons as a part of their rebuttal submissions, and information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the non-suspended uses of 2,4,5-T, and its conclusions and determinations as to whether any use of 2,4,5-T appears to cause unreasonable

adverse effects on the environment, are set forth in detail in the Position Document accompanying this Notice. This Position Document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice. For the reasons summarized below and developed in detail in the Position Document, the principal determinations of the Agency with respect to 2,4,5-T are as follows:

A. Determinations on Risks

The 2,4,5-T RPAR was based on information indicating that 2,4,5-T and/or its TCDD contaminant pose oncogenic, fetotoxic and teratogenic risks to the human population. As the Position Document explains, the Agency has determined that information submitted to rebut these risk criteria was insufficient to remove the Agency's concerns that 2,4,5-T and/or TCDD pose risks of fetotoxic and teratogenic effects in unborn children, and that 2,4,5-T and/or TCDD pose risks of increased incidences of cancer among exposed populations. The Agency has determined that the rangeland, rice and non-crop area uses of 2,4,5-T create oportunities for human exposure to this chemical and TCDD and that such exposure appears generally to cause adverse human effects. The Agency has therefore concluded that the oncogenic, fetotoxic and teratogenic risks associated with the non-suspended uses of 2,4,5-T are of sufficient magnitude to require the Agency to determine whether these uses of 2,4,5-T offer social, economic or environmental benefits which offset these risks.

B. Determination of Benefits

The uses of 2,4,5-T which are subject to this RPAR fall into three categories: rangeland, rice, and non-crop uses. For each of these use categories an estimate of the economic impact of cancellation was made. These estimates are intended only as approximations based on available information.[3] The Agency's analysis of this information leads it to conclude that the benefits of 2,4,5-T for the three categories of uses are roughly as set forth below.[4]

1. *Rangeland*—a. *Pest Infestation and Damage.*—Approximately 900 million acres of rangeland exist in the U.S. Rangeland is used as grazing land for livestock, principally cattle.[5] Much of the rangeland acreage is infested to some degree with one or more species of range weed. These weeds compete with the desired forage species for nutrients, water, space and light. The most serious problems occur on rangeland in the southwestern U.S.

b. *Use of 2,4,5-T and Alternatives*—(i) *Current Use of 2,4,5-T.*—Each year, approximately 1.5 million acres of rangeland are treated each year with 2,4,5-T to control mesquite, several oak species, and many other weeds.[6] This analysis was limited to acreage in the southwestern U.S. treated aerially. These acres account for most U.S. range acres treated with 2,4,5-T.

The primary weed pests on southwestern rangelands which are treated with 2,4,5-T are mesquite and various oak species. Approximately 1.3 million pounds acid equivalent ("a.e.") of 2,4,5-T are used annually tao control oaks, and approximately 340,300 pounds a.e. are used annually to control mesquite.

(ii) *Non-Chemical Alternatives.*—Prior to the introduction and wide-scale use of chemical herbicides, various hand and mechanical methods were the exclusive tools for range weed control. These methods have not been entirely replaced by chemical herbicides. However, while hand and mechanical operations can effecively control many of the pests in a reasonably efficient manner, they do not substitute efficiently for aerial chemical treatments when large tracts of infested acreage are involved.

(iii) *Chemical Alternatives.*— There are a variety of herbicides in addition to 2,4,5-T registered for control of the various range weeds. No single chemical is registered for control of as many weed species as 2,4,5-T. However, generally at least one alternative chemical is registered for each of the weeds which 2,4,5-T is registered to control. Thus, one or a combination of alternative chemicals is available as a substitute control for these weed species for one or more methods of application.

For aerial control of mesquite, one of the major weed species controlled with 2,4,5–T, dicamba is the only registered alternative which is effective when applied generally. Dicamba's efficacy for controlling mesquite is generally comparable to 2,4,5–T's, although there may be some areas where dicamba would be ineffective as a subsitute for 2,4,5–T

c. *Economic Impacts of Cancellation of 2,4,5–T for Rangeland*—(i) *User Impacts.*—User impacts developed by the USDA Assessment Team members are user in this analysis. These estimated were based on available information (both empirical and opinion) and form appoximate measures of potential impacts. It was estimated that used impacts from substituting dicamba for 2,4,5–T could average between 10–20 million dollars per year over a 16-year period. If no control is employed during this same period, annual impacts could be in the 15–25 million dollar range.

Equally concentrated solutions of 2,4,5–T and dicamba cost $15 and $36 per gallon, respectively. Increased herbicide material cost is reflected in increased treatment cost. For example, at an application rate of 0.5 pounds a.e. per acre, the total cost of one aerial application is $4.35 per acre for 2,4,5–T, and $6.85 per acre for dicamba.

On an per-acre basis, replacement by dicamba could result in reduced returns from beef production of $.36–.42/acre because of the projected increased cost of control. If no control is used, a small net gain in returns may be experienced on some acres; on others, as much as a $6.50/per acre reduction could be experienced.

(ii) *Market/Consumer Impacts.*— Rough estimates of market/consumer impacts arising from cancellation of 2,4,5–T were derived from two models. It was estimated that the Wholesale Price Index for farm products would rise between 0.003 and 0.064 percent annually. The Consumer Index for Food and Beverages would increase by between 0.001 and 0.046 percent annually. These increases are negligible.

2. *Rice*—a. *Pest Infestation and Damage.*—Weeds reduce the yield and quality of rice in the U.S. on approximately 2.5 million acres. Herbicides are used on about 96% of commercial U.S. rice acres to control rice weeds. Fields frequently receive more than one treatment per year. Most treatments are made by custom aerial applicators. It has been estimated that the total cost of weed control and direct losses from all weed pests is several hundred million dollars per year.

Conditions favorable for growing rice also favor the growth and reproduction of many terrestrial, aquatic, and

[3] The Agency is continuing to collect and review data relating to the benefits of 2,4,5-T for range, rice, and non-crop areas.

[4] For purposes of this analysis it is assumed that silvex would also be cancelled and, therefore, would not be available as an alternative to 2,4,5-T. In view of the virtually identical toxicological characteristics of the two compounds and the similarity of the benefits of both, it is unlikely that one would be cancelled and not the other.

[5] Rangeland is defined as land producing forage for animal consumption, harvested by grazing, which is not cultivated, seeded, fertilized, irrigated or treated with pesticides or other such similar practices on an annual basis. Fencerows enclosing areas are included as part of the range.

[6] Some of the range pest plants treated with 2,4,5-T: are bindweed, blackberry, blackjack oak, buckbrush, Canada thistle, chaparral, cocklebur, cresotebush, larkspur, lote, Macartney rose, mesquite, persimmon, post oak, prickly pear, sagebrush, salmonberry, salt cedar, sand shinnery oak, sumac, tarbush, winged elm, yucca.

semiaquatic weeds. Rice weeds reduce yields by direct competition and reduce quality through contamination of the harvested grain with weed seeds. Weeds in rice produce and abundance of viable seed. Once these infest the land, they are difficult to remove and may remain viable in the soil for many years.

The principal weed pests for which 2,4,5–T is used include hemp sesbania, northern jointvetch, morningglory, ducksalad and redstem. Without some form of weed control, significant yield and quality reductions on rice in the 2,4,5–T use area could occur.

b. *2,4,5–T and Alternatives*—(i) *Current Use of 2,4,5–T.*—Currently 2,4,5–T is used for rice weed control almost exclusively in the lower Mississippi Valley Area (Arkansas, Louisiana, Mississippi and Missouri). An estimated 300,000 acres are treated annually, of which 292,000 acres are treated aerially. 2,4,5–T use in the lower Mississippi Valley area accounts for about 12% of all herbicide applications to rice.

Various herbicides and cultural practices are commonly employed to control rice weeds. Current practices generally combine chemical and cultural controls. There is no information which suggests that cultural controls would provide adequate control of rice weeds in the absence of any chemical controls. Thus, it is likely that chemical alternatives to 2,4,5–T would be used in conjunction with cultural controls if 2,4,5–T were cancelled for use on rice.

Propanil and molinate are widely used rice herbicides which are likely to be used as substitutes for 2,4,5–T on some rice acres. These two herbicides are used principally to control grass weeds; however, propanil controls certain broadleaf and aquatic weeds that are controlled by 2,4,5–T. 2,4,–D is another probable substitute which is already used in appreciable quantities in the four-state 2,4,5–T use area. Other herbicides, MCPA, bifenox, bentazon and oxadiazon may also be used in place of 2,4,5–T. They are all currently used on rice in other states.

(ii) *Comparative Efficacy and Cost of 2,4,5–T and Alternatives.*—2,4,5–T is thought to be more effective than other herbicides in controlling broadleaf, aquatic and sedge weeds that infest rice fields. Moreover, 2,4,5–T is less injurious to non-target corps (particularly cotton and soybeans) than the other phenoxy herbicides (i.e., 2,4–D, MCPA and silvex).

Propanil is currently applied to about 95 percent of the southern rice-producing area for early season control of grasses. Propanil selectively kills barnyardgrass and many other grass, aquatic, broadleaf and sedge weeds. Propanil alone may fail to provide adequate control of the total weed population. Propanil controls hemp sesbania as effectively as 2,4,5–T; however, northern jointvetch, ducksalad, and redstem are only partially controlled by propanil. If propanil were substituted on acres now treated with 2,4,5–T, yield and quality losses could increase.

2,4–D is applied for control of many broadleaf, aquatic, and sedge weeds and would be used more frequently in the Lower Mississippi Valley area if it were not so injurious to cotton. Most rice-growing states regulate the aerial application of 2,4–D to reduce the damage to nearby cotton fields caused by spray drift. Therefore, 2,4—D may not be a viable alternative on all of the acreage not treated with 2,4,5–T. 2,4–D is applied at midseason and apparently provides control of many broadleaf weeds as effectively as 2,4,5–T. 2,4–D does not control northern jointvetch as effectively as 2,4,5–T and is ineffective on grass weeds.

Several other herbicides used for control of rice weeds include molinate, MCPA, bifenox, bentazon and oxadiazon. Molinate may not effectively control hemp sesbania, northern jointvetch, ducksalad, morningglory or redstem. MCPA is not used in the 2,4,5–T use area since it is thought to be relatively ineffective on hemp sesbania, northern jointvetch and Indian jointvetch, Bifenox, bentazon and oxadiazon are three new herbicides which are currently used to a limited extent; they do not appear to be as effective as 2,4,5–T on most broadleaf and aquatic weeds.

Cultural/mechanical weed control practices include planting weed-free seed, summer fallowing, seedbed preparation, crop rotation, special seeding methods, management of irrigation water, cultivation and hand-weeding (in sparse weed infestations or in small areas). Although some of these methods are effective alone on some rice weeds, they are usually combined with chemical herbicide treatments.

c. *Economic Impact of Cancellation of 2,4,5–T for Rice.*—If 2,4,5–T is cancelled for use on rice, the most likely alternatives would be either 2,4–D or propanil on the acres currently treated with 2,4,5–T.

The estimated cost of one application of 2,4,5-T in southern rice production is estimated at $9.50 per acre compared with $7.40 per acre for 2,4–D and $12.90 per acre for propanil. Use of propanil may necessitate a second treatment, bringing the annual cost of control with this herbicide to $21.80 per acre. Bentazon, molinate and oxadiazon material and application costs range from $13.50 to $13.90 per acre while bifenox costs are estimated at $21.00 per acre. Cost estimates for non-chemical alternatives were not made. Some weed cost increases and production losses would occur with the cancellation of 2,4,5–T because it is thought that 2,4,5–T is more effective than the alternatives. The estimated production losses and control cost increases would amount to several million dollars per year. However, the overall impact of these increases on rice production would be minor, amounting to less than 0.1% of U.S. production. The increased costs and production losses may range from several dollars per acre to approximately $35 per acre—about 10% of current returns per acre.

3. *Non-Crop Areas* [7]—a. *2,4,5–T and Alternatives.*—2,4,5–T is registered for control of many broad leaf and herbaceous weeds [8] in a variety of urban and rural non-crop areas such as hedgerows, storage areas, and vacant lots. 2,4,5–T is used because of its relatively low cost, the broad spectum of weeds it controls and its selectivity for control of undesirable plant species. Generally, the weed control achieved on these sites does not confer significant economic benefits.

Recent data on the usage of 2,4,5–T for non-crop areas is not available. However, in 1974 it was reported that 200,000 acres of grounds at industrial, commerical and institutional sites were treated with 2,4,5–T. An additional 180,000 lbs. a.e. of 2,4–D/2,4,5–T combination products were used on 90,000 acres of non-crop sites. Even combined, this area (190,000 acres) is a small proportion of the total 1.8 million acres treated with herbicides for grounds maintenance.

Numerous chemical and non-chemical controls are available as alternatives to 2,4,5–T. Chemical alternatives include 2,4–D, picloram, AMS, or amitrole. The most comparable chemical alternatives are combination products, such as 2,4–D

[7] Non-crop areas include: airports, fences, hedgerows (not otherwise included among the previously-suspended uses, *e.g.*, rights-of-way, pasture); lumber yards; refineries; non-food crop areas; storage areas; wastelands (not otherwise included among the previously-suspended uses, e.g., forestry); vacant lots; tank farms; industrial sites and areas (not otherwise included among the previously suspended uses, *e.g.*, rights-of-way).

[8] The weeds include the following broadleaved plants—pigweed, ragweed, lambsquarters, horsesnettle, cocklebur, morningglory—and woody plants-oaks, poplar, cottonwood, wild cherry, maple, blackberry, honeysuckle, poison-ivy, wild grape.

and picloram or 2,4–D and dicamba. Soil sterilants, such s sodium borate or sodium chlorate, could control weeds controlled by 2,4,5–T. Although sterilants are effective, they are useful primarily as preventive measures. Subsequent infestations may sometimes require follow-up treatments with conventional herbicides.

Mechanical methods of control, such as mowing or shearing, or manual methods could also serve as alternatives to 2,4,5–T.

The efficacy of the alternatives compared to 2,4,5–T is not known. The spectrum of weeds controlled by any one of the alternatives is smaller than that of 2,4,5–T. However, the spectrum of weeds contolled by 2,4,5–T may be approximated fairly closely by using a combination product or by using multiple applications of different herbicides.

For ground broadcast and selective foliar sprays, 2,4,5–T is commonly used alone or in various combinations with other chemicals such as 2,4–D, picloram or dicamba. Herbicide costs for 2,4,5–T, when used alone, are about $8.00 per acre and range from about $30.00 to $44.50 per acre when used in combination with other chemicals. In comparison, material costs for combinations of 2,4–D, picloram and dicamba, the most likely alternatives, range from about $24.00 to $42.50 per acre. Material costs for other chemical alternatives range from $2.45 per acre (2,4–D) to about $67.00 per acre (glyphosate). Use of these latter alternatives may require successive multiple applications with the same or several herbicides for comparable control.

b. *Economic Impact of Cancellation of 2,4,5–T for Non-Crop Areas.*—In general, effective alternatives of 2,4,5–T exist for non-crop sites. For users of 2,4,5–T combination products, economic impacts will be slight. Effective alternative combination products which provide equally long term control at a comparable price are registered and available. Impacts on users of 2,4,5–T applied as a single active ingredient will be felt in the form of minor increase in control costs. Most of the effective alternatives are combination products which cost more than 2,4,5–T alone.

Market and consumer impacts have not been rigorously analyzed for non-crop areas because of the lack of reliable quantitative information. However, it is believed that little if any impact is likely because effective alternatives are available and because the economic value of weed control on non-crop sites is very small.

C. Determination on Apparent Unreasonable Adverse Effects

For the reasons set forth in detail in the Position Document, the Agency has made the following determinations relating to the apparent unreasonable adverse effects of the non-suspended uses of 2,4,5–T:

1. *Determinations on Rangeland Use.*—The Agency has determined that the use of 2,4,5–T on rangeland appears to pose risks which are greater than the social, economic, and environmental benefits of the use. The Agency has further determined that data submitted and reviewed during the RPAR review on the exposure potential and benefits of the rangeland use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of 2,4,5–T on rangeland appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

2. *Determinations on Rice Use.*—The Agency has determined that the use of 2,4,5–T on rice appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that data submitted and reviewed during the RPAR review on the exposure potential and benefits of the rice use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of 2,4,5–T on rice appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

3. *Determinations on Non-Crop Uses.*—The Agency has determined that the use of 2,4,5–T on airports, fences, lumber yards, refineries, non-food crop areas, storage areas, wastelands, vacant lots, tank farms, industrial sites and other areas not subject to the emergency suspension orders (i.e., forests, rights-of-way, and pastures) appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that data submitted and reviewed during the RPAR review on the exposure potential and benefits of the non-crop uses are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the non-crop uses of 2,4,5–T appear generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

D. Initiation of Regulatory Actions

Based upon the determinations summarized above and developed in detail in the Position Document, the Agency is initiating the following regulatory actions, and this document shall constitute its notice of intention to initiate these actions:

(1) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the rangeland use of 2,4,5–T;

(2) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the rice use of 2,4,5–T; and

(3) issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the non-crop uses of 2,4,5-T.

E. Statement of Issues

In accordance with § 164.23 of the Agency's Rules of Practice (40 CFR 164), this part of the notice states the questions on which evidence relative to the non-suspended uses of 2,4,5-T shall be taken at the FIFRA section 6(b)(2) hearing.

With respect to the rice, rangeland, and non-crop uses of 2,4,5-T, evidence will be taken as to the following questions:[9]

(1) Whether the use of 2,4,5-T on rangeland generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(2) Whether the use of 2,4,5-T on rice generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(3) Whether the non-crop uses of 2,4,5-T generally cause unreasonable adverse

[9] Because the Agency plans to propose that this FIFRA section 6(b)(2) hearing on the non-suspended uses of 2,4,5-T be consolidated with the FIFRA section 6(b)(2) hearing on the non-suspended uses of silvex and the FIFRA section 6(b)(1) hearing, already in progress, for the suspended uses of 2,4,5-T and silvex, the consolidated hearing would review all uses of both silvex and 2,4,5-T. This statement of issues refers only to those issues which are specific to the non-suspended uses of 2,4,5-T. It is important to emphasize that this Notice is specific to the non-suspended uses, and that other issues would be addressed in the hearing as a whole.

effects on the environment when used in accordance with widespread and commonly recognized practices;

(4) Whether the rice, rangeland and non-crop uses of 2,4,5-T will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice unless modifications to the terms and conditions of registration more restrictive than those currently employed are accomplished; and

(5) Whether, if modifications to the terms and conditions of registration are accomplished, the labeling of 2,4,5-T products for these uses will comply with the provisions of FIFRA.

In considering these issues and whether or not to participate in a hearing on these issues, registrants and other interested persons should clearly understand that these and other uses of 2,4,5-T may be cancelled as a result of evidence presented and actions taken in this hearing.

IV. Procedural Matters

As discussed above in section II of this notice, the Agency's decision to initiate the regulatory actions described in section III must be referred for review to the Secretary of Agriculture and the Scientific Advisory Panel. In accordance with FIFRA, the EPA position document setting forth in detail the reasons and factual bases for the regulatory actions which the Agency proposes and this notice of determination are being transmitted immediately to the Secretary of Agriculture and to the Scientific Advisory Panel for comment.[10]

The Agency also is transmitting copies of these documents to 2,4,5-T registrants, and is offering registrants and other interested parties an opportunity to comment on the bases for the Agency's action by making copies of the Position Document available upon request. Interested persons may receive copies of the documents by communicating their requests to Michael Dellarco, Project Manager, Special Pesticide Review Division (TS–791) EPA, Room 447, 401 M Street SW., Washington, D.C. 20460. Registrants and other interested persons will be given the same period of time to submit comments—30 days—that FIFRA provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this notice which it determines are appropriate.

The Agency's analysis of the comments received during the external review period may lead to withdrawal or modification of the FIFRA section 6(b)(2) notice of intent to hold a hearing. Alternatively, if the Notice is not withdrawn, the Agency intends to petition the Administrative Law Judge to consolidate the FIFRA section 6(b)(2) hearing on the non-suspended uses of 2,4,5-T with the FIFRA section 6(b)(1) hearing on the suspended uses of 2,4,5-T.

Until this external review phase is concluded and the Agency issues its final notices, it is unnecessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from conclusion of this RPAR.

All comments on the proposed actions should be sent to the Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS–793), EPA, Room 447, East Tower, 401 M Street SW., Washington, D.C. 20460. In order to facilitate the work of the Agency and of others interested in inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation OPP/30000/*26D*, and should be submitted on or before August 16, 1979.

Dated: July 9, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79–22061 Filed 7–16–79; 8:45 am]

BILLING CODE 6560–01–M

[10] FIFRA section 6(b) also provides that upon a finding by the Administrator that suspension of a pesticide registration is necessary under section 6(c) of FIFRA to prevent an imminent hazard to human health, he may waive these external review requirements. In his Emergency Suspension Orders Regarding Registrations of Pesticide Products Containing 2,4,5-T, the Administrator made such findings (44 FR 15877, March 15, 1979). Accordingly, in the Notices of Intent to Cancel the Registrations or Change the Classifications of Pesticide Products Containing 2,4,5-T and the Statement of Reasons (44 FR 15896, March 15, 1979), the Administrator specifically invoked that authority and waived the external review requirements for the actions initiated by the Suspension Orders.

[FRL–1275–2 OPP–30000/31]

Preliminary Determination Concerning a Rebuttable Presumption Against Registration of Pesticide Products Containing 2-(2,4,5-Trichlorophenoxy Propionic Acid (Silvex); Hearing; Availability of Position Document

I. Introduction

On February 28, 1979 the Administrator of the Environmental Protection Agency (EPA) ordered the emergency suspension of the use of two phenoxy herbicides, 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) and 2–(2,4,5-trichlorophenoxy) propionic acid (silvex) on forests, rights-of-way and pastures, and the home and garden, aquatic ditch bank/weed control, and commercial/ornamental turf uses of silvex (suspended uses). (44 FR 15897, March 15, 1979).[1]

The emergency suspension orders were based in part on data and information developed for and through the agency's rebuttable presumption against registration (RPAR) for pesticide products containing one of these chemicals, 2,4,5,-T (43 FR 17116, April 21, 1978). Silvex was included in the suspension orders in part because 2,4,5,-T and silvex both contain the contaminant 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), a highly toxic chemical, have comparable uses and correspondingly comparable exposure potential, and pose risk concerns which are similar in many ways.

At the time the suspension orders were issued, silvex was a candidate for a rebuttable presumption against registration (RPAR), but an RPAR had not been issued. However, the RPAR review of 2,4,5-T and the suspension action prompted the Agency to expedite its RPAR review of the use of silvex on rangeland, rice, sugarcane, orchards and non-crop areas[2] (non-suspended uses). As a result of this expedited review, the Agency has determined that the non-suspended uses of silvex me the risk criteria for issuance of a rebuttable presumption against registration based on the oncogenic and other chronic or

[1] Suspension hearings commenced on April 19, 1979, but were discontinued on May 15, 1979 after all registrants withdrew from the hearings. The first prehearing conference for the related cancellation proceedings was held on June 5, 1979; the formal evidentiary hearing will probably begin in the fall.

[2] The non-crop uses of silvex include use on or around non-crop sites, including fencerows, hedgerows, fences (not otherwise included in suspended uses, e.g., rights of way, pasture); industrial sites or buildings (not otherwise included in suspended uses, e.g., rights-of-way, commercial/ornamental turf); storage areas, waste areas, vacant lots, parking areas.

delayed toxic effects risk criteria for issuance of a rebuttable presumption against registration. (40 CFR 162.11(a)(3).) The Agency has also determined that the criteria for rebutting the presumptions of risks do not appear to be satisfied, and that the risks appear to be greater than the benefits.[3]

Accordingly, the Agency is announcing its determination to initiate proceedings to determine whether or not to cancel or modify the terms and conditions of registration of the non-suspended uses of silvex, pursuant to FIFRA section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et. seq.* (FIFRA). As explained in this notice, this action is a preliminary determination at this point, pending external review through submission to and review by the United State Department of Agriculture and the Scientific Advisory Panel, pursuant to FIFRA sections 6(b) and 25(d). The action does not become final until the Agency has reviewed the comments of these reviewers and issued final notices based in part on consideration of these comments.

In broad summary, the agency has determined that the non-suspended uses of silvex meet or exceed the risk criteria for issuance of an RPAR set out at 40 CFR 162.11 (a)(3), and that applicable data and information submitted in response to TCDD issues in the 2,4,5-T RPAR do not rebut the presumptions. Therefore, the risks to humans of oncongenic, fetotoxic, and teratogenic effects are of sufficent concern to require the Agency to consider whether offsetting economic, social or environmental benefits exist.

The Agency has considered benefits information which pesticide registrants, the U.S. Department of Agriculture, and other interested parties have provided to the Agency, and has analyzed the economic benefits of the non-suspended uses of silvex. The Agency has weighed risks and benefits together in order to determine whether the risks of each use are warranted by the benefits of the use.

With respect to the non-suspended uses of silvex, the Agency has determined: (1) that these uses appear generally to cause unreasonable adverse effects on the environment, (2) that there are uncertainties in the data relating to the risks and benefits of these uses, (3) that additional data on the risks and benefits of the non-suspended uses of silvex will permit the Agency to determine whether or not to cancel the registrations for these uses, and (4) such information can best be acquired through a public hearing pursuant to FIFRA Section 6(b)(2).

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of data and information relating to the risks and benefits of the non-suspended uses of silvex and the Agency's reasons and factual bases for the regulatory action it is initiating. The Notice is organized into four sections. Section I is this introduction. Section II sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's preliminary determinations relating to the risks and benefits associated with the non-suspended uses of silvex and initiating the regulatory actions which flow from these determinations. Section IV provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

A. General

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonale adverse effects on the environment" (FIFRA, section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration (e.g., registrants, users), and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

B. The RPAR Process

The Agency created the rebuttable presumption against registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth in the Agency's regulations at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency generally announces that an RPAR has arisen by publishing a notice in the **Federal Register.** After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to man or to animals or plants of concern with regard to the adverse effect in question. Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the RPAR risk presumptions have been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider

[3] Ordinarily, the public phase of the RPAR review of a chemical begins with issuance of a notice of rebuttable presumption in which the Agency presents the data and other information which indicate that the chemical meets or exceeds the risk criteria set out at 40 CFR 162.11(a)(3). The Agency invites registrants and other interested parties to comment on the data and information, and to present information on the benefits of the chemical. The rebuttals to the presumption and the information on benefits are reviewed and a Position Document ⅔ presenting the agency's review of data relating to risks and benefits is issued to the public, and submitted to the U.S. Department of Agriculture and the Scientific Advisory Panel for review (see section II of this Notice).

In the present case, the Agency has collapsed these procedures into a single action because the data and information indicating that the non-suspended uses of silvex appear to present unreasonable risks to the environment indicate that a decision on these chemicals should be reached as expeditiously as possible. It is in the public interest to consolidate decisionmaking on all uses of 2,4,5-T and silvex in a single legal proceeding. Moreover, since the action is at this point preliminary and subject to revision after consideration of the views and recommendations of the United States Department of Agriculture, pesticide registrants, the Scientific Advisory Panel, and other interested parties, the public review and comment function of the RPAR process is fully satisfied by the procedures outlined in this notice.

information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency and other benefits information known to the Agency. After weighing of the risks and the benefits of a pesticide's use, the Agency may conclude the RPAR process either by issuing a notice of intent to cancel or deny registration(s), pursuant to FIFRA section 6(b)(1) and 3(d)(1) or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registration(s) should be cancelled or applications for registration(s) denied.

C. Notices of Intent to Cancel or to Hold a Hearing

FIFRA provides two mechanisms for instituting proceedings to cancel pesticides. The Administrator may issue a notice of intent to cancel a pesticide and offer registrants and other affected persons an opportunity to request a hearing. (FIFRA, section 6(b)(1).) Alternatively, the Administrator may issue a notice of intent to hold a hearing to determine whether or not the pesticide should be cancelled. (FIFRA, section 6(b)(2).)

The judgment of whether to issue a section 6(b)(1) or a section 6(b)(2) notice is within the sole discretion of the Administrator or his duly designated delegatee. If the Administrator determines that the risks of a pesticide's use appear to outweigh its benefits, he may issue a notice of intent to cancel pursuant to FIFRA section 6(b)(1). If, however, the Administrator's judgment concerning the risks and benefits of a pesticide's use is only tentative, the Administrator may issue a notice under section 6(b)(2) declaring his intention to hold a hearing "to determine whether or not its registration should be cancelled."

D. External Review

FIFRA requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy (FIFRA, Section 6(b)). The Agency is required to submit these documents to the Secretary of Agriculture at least 60 days before making the notice effective by sending it to registrants or making it public. If the Secretary of Agriculture comments, in writing, within 30 days after receiving the notice, the Agency is required to publish the comments and the Administrator's responses to them along with publication of the notice. FIFRA also requires the Administrator to submit section 6 notices, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture, to the Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment. (FIFRA, section 25(d).)

Although not required to do so under the statute, the Agency has determined that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford registrants and other interested persons an opportunity to comment on the basis for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps are taken to make copies of the Position Document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the Federal Register, and by other means. Registrants and other interested persons will be allowed the same period of time to comment—30 days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

E. Final Notices

The determination to issue a FIFRA section 6 notice is a preliminary determination, pending external review and Agency analysis of comments received. On the basis of these comments, the Agency may withdraw the notice, issue a final notice without modification, or modify the notice, as appropriate.

After complying with these external review requirements and, if the notice is not withdrawn, accomplishing any changes in the contemplated action which are deemed appropriate as a result of any comments received, the Agency implements the desired regulatory action by sending and making public a notice of intent to cancel under FIFRA section 6(b)(1) or a notice of intent to hold a hearing under FIFRA section 6(b)(2). If related hearings are in progress, the Agency may move to consolidate proposed FIFRA section 6(b) proceedings with such ongoing FIFRA proceedings. Hearings are governed by the Agency's rules of practice for hearings under FIFRA section 6 [40 CFR 164]. At the end of the hearing, the Administrator issues his final decision regarding cancellation, which may include an order cancelling some or all uses.

III. Determinations and Inititation of Regulatory Action

The Agency has considered information on the risks associated with the non-suspended uses of silvex, including information submitted by registrants and other interested persons in rebuttal of the 2,4,5–T RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the non-suspended uses of silvex, including information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the non-suspended uses of silvex, and its conclusions and determinations as to whether any use of silvex appears to cause unreasonable adverse effects on the environment, are set forth in detail in the Position Document accompanying this Notice. This Position Document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice. For the reasons summarized below and developed in detail in the Position Document, the principal determinations of the Agency with respect to silvex are as follows:

A. Determination on Risks

Data and information summarized in the Position Document indicate that silvex and/or its TCDD contaminant meet or exceed the oncogenic, and other chronic and delayed toxic effects risks criteria at 40 CFR 162.11(a)(3), and that the rangeland, rice, sugarcane, orchard and noncrop area uses of silvex pose risks of these adverse effects to human populations. As the Position Document explains, the Agency has determined that information available to the Agency (including information submitted to rebut these risks criteria for the 2,4,5-T RPAR) is insufficient to lay to rest the Agency's concerns that silvex and/or TCDD pose risks of fetotoxic and teratogenic effects in unborn children, and that TCDD and silvex containing TCDD pose risks of cancer among exposed populations. The Agency has determined that the uses of silvex create opportunities for human exposure to these chemicals and that such exposure appears generally to cause adverse human effects. The Agency has therefore concluded that the oncogenic, fetotoxic and teratogenic risks associated with the non-suspended uses of silvex are of sufficient magnitude to require the Agency to determine whether the non-suspended uses of silvex offer social, economic, or

environmental benefits which offset these risks.

B. Determination of Benefits

The uses of silvex which are subject to this notice fall into five categories: range, rice, sugarcane, orchard and non-crop areas. For each of these use categories an estimate of the economic impact of cancellation of silvex was made.[4] These estimates are intended only as approximations based on available information.[5] The Agency's analysis of this available information leads to the conclusion that the benefits of silvex for the five categories of uses are approximately as set forth below.

1. *Rangeland.* a. *Pest Infestation and Damage.*—Approximately 900 million acres of rangeland exist in the United State. Rangeland is used as grazing land for livestock, principally cattle.[6] A wide variety of herbaceous and woody plants infest rangeland and compete with the desired forage species for nutrients, water, space and light. The most serious problems occur on rangeland in the southwestern U.S.

b. *Use of Silvex and Alternatives.* (i) *Current Use of Silvex.* Each year, approximately 150,000 acres of rangeland in the United States are treated with silvex. Silvex is used most exclusively in the Southwest. The principal pest species which silvex is applied to control are various oak species.

(ii) *Non-Chemical Alternatives.* Prior to the introduction and wide-scale use of chemical herbicides, various hand and mechanical methods were the exclusive tools for range weed control. These methods have not been entirely replaced by chemical herbicides. However, while hand and mechancial operations can effectively control many of the pests in a reasonably efficient manner, they do not substitute efficiently for aerial chemical treatments when large tracts of infested acreage are involved.

(iii) *Chemical Alternatives.* Several registered chemical alternatives as well as non-chemical controls not analyzed here are effective against one or more of the various range weeds controlled by silvex. However, these chemicals are neither not registered for aerial application or are not as effective as silvex for aerial application. 2,4–D and dicamba can be applied aerially to rangeland, but they are relatively ineffective as foliar sprays. The USDA Assessment Team concluded that there is no effective alternative to silvex for aerial control of oaks.

Since there are no effective alternatives to aerially applied silvex for oak control, the yield effects resulting from cancellation of silvex for range use could be severe on acreage currently treated with silvex. Cancellation would leave users with no aerially applied alternative control on these acres. In some areas, beef yields could fall substantially.

c. *Economic Impact of Cancellation of Silvex for Rangeland.* User impacts developed by the USDA Assessment Team members are used in this analysis. These estimates were based on available information (both empirical and opinion) and form approximate measures of potential impacts.

Curent silvex use is limited primarily to control of various oak species by aerial application of the herbicide. If silvex is canceled for this use, most users probably will chose not to treat large areas formerly treated with silvex because no comparably-effective alternatives are available. These users will save from $4.60 to $13.00 per acre in control costs. These savings, however, will be offset by lower revenues from reduced production. Those silvex users who need only spot treatments on smaller tracts will be able to obtain some degree of control with one or more of the alternatives now available, since aerial application would be unnecessary. The aggregate impact on users will be small because few acres are treated with silvex now.

The economic impact of cancelling silvex for range would be negligible at consumer and national levels because silvex is now used on so few acres of rangeland (approximately 0.2% of U.S. rangeland).

2. *Rice.* a. *Pest Infestation and Damage.* Weeds reduce the yield and quality of rice in the U.S. on approximately 2.5 million acres. Herbicides are used on about 98% of commercial U.S. rice acreage. Fields are frequently treated more than once per year. Most treatments are made by custom aerial applicators. It has been estimated that the total cost of weed control and direct losses from weeds is several hundred million dollars per year.

Conditions favorable for growing rice also favor the growth and reproduction of many terrestrial, aquatic, and semi-aquatic weeds. Rice weeds reduce yields by direct competition and reduce quality through contamination of the harvested grain with weed seeds. Weeds in rice produce an abundance of seed. Once these infest the land, they are difficult to remove and may remain viable in the soil for many years.

Silvex is used annually on only 2,000 rice-growing acres in the United States. The principal weed pests for which silvex is used include hemp sesbania, northern jointvetch, morningglory, ducksalad and redstem. Without weed control, significant yield and quality reductions on rice in the silvex use area could occur.

b. *Use of Silvex and Alternatives.* (i) *Current Use of Silvex and Alternatives.* Silvex use on rice is confined to the lower Mississippi Valley region (Arkansas, Northern Louisiana, Mississippi and Missouri). Silvex is used annually on 2,000 acres out of approximately 2.5 million rice-growing acres in the U.S. that receive some herbicide treatment.

Various herbicides and cultural practices are commonly employed to control rice weeds. Current practices generally combine chemical and cultural controls. There is no information which suggests that cultural controls would provide adequate control of rice weeds in the absence of any chemical controls. Thus, it is likely that chemical alternatives to silvex would be used in conjunction with cultural controls if silvex were canceled for use on rice.

Herbicides most frequently used on rice include propanil and molinate, which together account for 73% of all herbicide acre-applications to rice. These two herbicides are used principally to control grass weeds; however, propanil controls certain broadleaf and aquatic weeds that are controlled by silvex. 2,4-D is the only other herbicide used in appreciable quantities in the four-state silvex use area. Other herbicides, MCPA, bifenox, bentaxon and oxadiazon may also be used in place of silvex. They are currently used in other states.

c. *Comparative Efficacy and Cost of Silvex and Alternatives of Use of Rice.* Silvex controls most broadleaf, aquatic and sedge weeds. Silvex, however, injures soybeans, a crop commonly grown in rotation with rice. Silvex also damages cotton, a crop commonly grown in areas adjacent to rice-growing acreage. These phytotoxic properties of silvex explain why silvex is used on few

[4] It is assumed that 2,4,5–T also would be canceled and unavailable as a substitute for silvex. In view of the virtually identical toxicological characteristics of the two compounds and the similarity of their benefits, it is unlikely that only one of them would be canceled for the uses for which they are alternatives for each other.

[5] The Agency is continuing to collect and review data relating to the benefits of silvex for range, rice, sugarcane, orchard, and non-crop areas.

[6] "Rangeland" is defined as land producing forage for animal consumption, harvested by grazing, which is not cultivated, seeded, fertilized, irrigated or treated with pesticides or other such similar practices on an annual basis. Fencerows enclosing range areas are included as part of the range.

acres; rice growers prefer to use 2,4,5-T, which is less phytotoxic.

Propanil is currently applied to about 95 percent of the southern rice-producing area for early season control of grasses. Propanil selectively kills barnyard grass and many other grasses, aquatic, broadleaf and sedge weeds. Propanil controls hemp sesbania as effectively as silvex; however, propanil is less effective than silvex for controlling northern jointvetch, ducksalad, and redstem. If propanil were substituted on acres treated with silvex, yield and quality losses could occur.

2,4-D is applied for control of many broadleaf, aquatic, and sedge weeds. Its use, however, is curtailed in the lower Mississippi Valley because it is highly injurious to cotton. Most rice-growing states regulate the aerial application of 2,4-D to reduce damage from spray drift to nearby cotton fields. Therefore, 2,4-D may not be a viable alternative on all of the acreage now treated with silvex. 2,4-D is applied at midseason and apparently provides control of many broadleaf weeds as effectively as silvex. 2,4-D does not control northern jointvetch as effectively as silvex and is ineffective on grass weeds.

Several other herbicides used for control of rice weeds include molinate, MCPA, bifenox, bentazon and oxadiazon. Molinate may not effectively control hemp sesbania, northern jointvetch, ducksalad, morningglory or redstem. MCPA is not used in the silvex use area since it is thought to be relatively ineffective on hemp sesbania, northern jointvetch and Indian jointvetch. Bifenox, bentazon and oxadiazon are three new herbicides which are currently used to a limited extent; they do not appear to be as effective as silvex on most broadleaf and aquatic weeds.

Effective weed control systems in rice combine preventive, cultural, mechanical and biological methods with chemical control methods. Cultural/mechanical weed control practices include planting weed-free seed, summer fallowing, crop rotation, land leveling, seedbed preparation, special seeding methods, proper management of water, cultivation and hand weeding (in sparse weed infestations or in small areas). Although some of these methods are effective alone on some rice weeds, they are usually combined with chemical herbicide treatments.

d. *Economic Impact of Cancellation of Silvex Use on Rice.* If Silvex is cancelled for use on rice, current silvex users probably would use alternative chemical controls. 2,4-D and propanil would be the most likely alternatives. Use of these alternatives would cost $7.40 per acre-treatment (for 2,4-D) or $12.90 per acre-treatment (for propanil), compared with $9.50 per acre-treatment for silvex. Use of propanil may necessitate a second treatment, bringing the annual cost of control with this herbicide to $21.80 per acre. Other possible alternatives are somewhat more expensive than silvex or these alternatives.

The economic impact of cancelling silvex for control of rice weeds would be negligible at consumer, user and national levels. This is due to the very limited use of silvex (less than 0.1% of all treated acres) and the availability of effective alternatives.

3. *Sugarcane.* a. *Pest Infestation and Damage; Use and Efficacy of Silvex and Alternatives for Sugarcane Use.* Silvex is used in Louisiana and Flordia on sugarcane to control a variety of weeds that are resistant to 2,4-D. If uncontrolled, pest weeds would compete with sugarcane for nutrients, water, space and sunlight and would reduce crop yield.

Silvex is used on about 15% of all sugarcane harvested acres. Use of silvex has decreased in recent years; in 1976, approximately 33% of acres used for growing sugarcane were treated with silvex. The primary alternatives to silvex are a combination of dicamba and 2,4-D and 2,4-D alone.

Neither the combination of dicamba and 2,4-D nor 2,4-D alone is as effective as silvex. Therefore, some production losses, in some instances significant, may be expected from replacement of silvex by either of these alternatives.

b. *Economic Impact of Cancellation of Silvex for Sugarcane Use.* User level production value losses, in a worst-case situation, could amount to $4.0 million in Florida and $6.3 million in Louisiana if silvex were canceled and the combination of dicamba and 2,4-D or 2,4-D alone substituted for it. The maximum estimated yield losses would amount to only about 2% of total U.S. sugarcane production. Total U.S. sugarcane production accounts for only 18% of the U.S. sugar supply. Therefore, the cancellation of silvex would not result in measurable sugar price changes at the market or consumer level.

4. *Orchard.* a. *Use of Silvex and Alternatives on Orchards.* Silvex is registered for use in preventing apples and prunes from dropping from trees prior to harvest and for increasing fruit set on pears. Premature drops cause a complete economic loss of prune crops and a substantial loss in apple crops. Apples that have dropped prematurely may be sold for low-return uses such as cider. Prunes that have dropped early cannot be put to any commercial use.

In addition to minimizing preharvest apple drop and thus increasing aggregate production, silvex also acts to increase the quality of treated fruit by enhancing the coloring of red varieties. Use of silvex adds two to three weeks to apple trees' retention of fruit for on-tree ripening. The extra one to two weeks of on-tree ripening of fruit improves the color, sugar content and flavor of the sprayed fruit. These factors are particularly important for fresh-market growers who strive to maximize the percentage of their crops which grade out in the fresh-quality categories. The grade impacts of silvex are important to users in all areas, including the southernmost apple states (Georgia, North Carolina, South Carolina, Virginia), where growers attempt to produce high-color fresh quality apples for the highly-profitable early-season market.

Little quantitative data are available indicating the specific location or extent of silvex use on apples, prunes, or pears. A proprietary pesticide usage survey indicates that silvex use on apples in 1976 was limited to a few thousand acres as was silvex use on prunes. This survey data contrasts with information provided by horticultural personnel, who believed that use was substantially higher than that indicated by the survey data. Apparently, little silvex is applied to pears.

Currently, two alternatives to silvex are available for use on apples to control preharvest drop. NAA (1-Napthaleneacetic acid) is registered for apples both as an early season thinning agent and as a late season drop control agent. Alar (succinic acid 2,2-dimethyl hydrazide) is registered for premature apple drop control as well as for other growth regulating functions.

Neither NAA nor Alar is considered to be as effective as silvex for premature drop control. NAA is less effective than silvex in the southern apple states and is best suited for varieties other than Red Delicious, the apple cultivar on which silvex is principally used. Use of NAA also may require a second annual application in some cases, whereas silvex is applied only once a year.

Alar is a major alternative to silvex on apples since it is suitable for use on Red Delicious. Alar seems to be less effective than silvex for preharvest drop control and also may reduce fruit size. Alar will also adversely affect fruit shape the following year if applied within 60 days of harvest.

There are currently no registered alternatives to silvex for premature drop control on prunes. However, 2,4-DP, which is currently registered for some non-crop applications, has reportedly provided good prune drop control in field tests, and may be registered for this use in the future. There are no registered alternatives for silvex use on pears.

(b) *Economic Impact of Cancellation of Silvex for Orchard Use.* Substitution of Alar and NAA for silvex could increase apple production costs by as much as $1 million per year. Prune growers could incur revenue reductions of approximately $1.8 million per year if silvex were cancelled, assuming no suitable alternative becomes available.

If the increased apple production costs are absorbed by the growers, no impact will be felt by consumers. Even if the costs are passed on to the consumer, the retail price effect on apples would be negligible. Although some adverse impact on consumer prices would occur as a result of a cancellation of silvex for use on prunes, it is not possible to assess the magnitude of such an increase. Cancellation of silvex use on pears is unlikely to have any effect on consumer supply or the quality or price of pears because little silvex is applied for this use.

5. *Non-crop Areas.*[7] a. *Use of Silvex and Alternatives on Non-crop Areas.* Silvex is registered for control of many broadleaved and herbaceous weeds [8] in a variety of urban and rural non-crop areas. Silvex is used because of its relatively low cost, the broad spectrum of weeds it controls and its selectivity for control of undesirable plant species. Generally, the weed control achieved on these sites does not confer significant economic benefits.

Recent data on the usage of silvex for non-crop areas is not available. However, a 1974 publication reported that 60,000 lbs. a.e., of silvex were used for general maintenance on 30,000 acres of grounds at industrial, commercial and institutional sites. This area is a small proportion (1.7%) of the 1.8 million acres treated with herbicides for grounds maintenance.

Numerous chemical and non-chemical controls are available as alternatives to silvex. Chemical alternatives include herbicides, such as 2,4-D, picloram, dicamba, AMS, or amitrole. The most comparable alternatives are combination products, such as 2,4-D and picloram or 2,4-D and dicamba. Soil sterilants, such as sodium borate or sodium chlorate, control weeds that silvex controls but are effective primarily as preventive controls. Subsequent infestations sometimes may require follow-up treatments with conventional herbicides.

Mechanical methods of control, such as mowing or shearing, or manual methods could also serve as alternatives to silvex.

The efficacy of the alternatives compared with that of silvex is not known. The spectrum of weeds controlled will differ from that of silvex for the individual active ingredients. However, silvex's weed spectrum may be approximated fairly closely by using a combination product or by using multiple applications of different herbicides. It can be assumed that products listing weed species controlled by silvex on their labels are as effective as silvex at controlling those weeds.

Generally, no more than one treatment with silvex is needed annually to achieve control of the problem weeds. In some circumstances, one treatment will give comparable length of control of silvex, but other herbicides, such as 2,4–D alone or amitrole, may require more than one treatment annually. The length of control with mechanical or manual means is unknown.

b. *Economic Impact of Cancellation of Silvex for Non-crop Uses.* In general, effective alternatives to silvex exist for non-crop sites. Effective alternative combination products which provide equally long-term control at a comparable price are registered and available. Impacts on users of silvex will be felt in the form of increased control costs for the combination alternatives.

Little if any impact is expected at market and consumer levels because effective alternatives are available and because the economic value of weed control on non-crop sites is very small.

C. Determinations on Apparent Unreasonable Adverse Effects

For the reasons set forth in detail in the Position Document, the Agency has made the following determinations relating to the apparent unreasonable adverse effects on the non-suspended uses of silvex:

1. *Determinations on Rangeland Use.* The Agency has determined that the use of silvex on rangeland appears to pose risks which are greater than the social, economic, and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of use on rangeland are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of silvex on rangeland appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread commonly recognized practice.

2. *Determinations on Rice Use.* The Agency has determined that the use of silvex on rice appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of the rice use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of silvex on rice appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

3. *Determinations on Sugarcane Use.* The Agency has determined that the use of silvex on sugarcane appears to pose risks which are greater than the social, economic, and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of use on sugarcane are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of silvex on sugarcane appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

4. *Determinations on Orchard Use.* The Agency has determined that the use of silvex on orchards appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of the orchard use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for

[7] "Non-crop areas" include: fencerows, hedgerows, fences (not otherwise included in suspended uses, e.g., rights-of-way, pasture); industrial sites or buildings (not otherwise included in suspended uses, e.g., rights-of-way, commercial/ornamental turf); storage areas, waste areas, vacant lots, parking areas.

[8] The weeds are numerous; they include the following broadleaved plants—pigweed, ragweed, lambsquarters, horsenettle, cocklebur, morningglory—and woody plants—poplar, cottonwood, wild cherry, maple, blackberry, honeysuckle, poison ivy, and wild grape.

the review of these questions. Accordingly, the Agency has determined that the use of silvex on orchards appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

5. *Determinations on Non-crop Uses.* The Agency has determined that the use of silvex on fences, lumber yards, refineries, non-food crop areas, storage areas, wastelands, vacant lots, tank farms, industrial sites and other non-crop areas, not subject to the emergency suspension orders (i.e., the suspension orders applied to forests, rights-of-way, pastures, home and gardne, aquatic weed control/ditch bank and commercial/ornamental turf) appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of the non-crop uses are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the non-crop uses of silvex appear generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

D. Initiation of Regulatory Actions

Based on the determinations summarized above and developed in detail in the Position Document, the Agency is initiating the following regulatory actions and this document shall constitute its notice of intent to initiate these actions:

(1) issuance of a notice of intent to hold a hearing pursuant to FIFRA Section 6(b)(2) to determine whether or not to cancel the use of silvex on rangeland;

(2) issuance of a notice of intent to hold a hearing pursuant to FIFRA Section 6(b)(2) to determine whether or not to cancel the use of rice;

(3) issuance of a notice of intent to hold a hearing pursuant to FIFRA Section 6(b)(2) to determine whether or not to cancel the use of silvex on sugarcane;

(4) issuance of a notice of intent to hold a hearing pursuant to FIFRA Section 6(b)(2) to determine whether or not to cancel the orchard uses of silvex;

(5) issuance of a notice of intent to hold a hearing pursuant to FIFRA Section 6(b)(2) to determine whether or not to cancel the non-crop use of silvex.

E. Statement of Issues

In accordance with § 164.23 of the Agency's Rules of Practice (40 CFR 164), this part of the notice states the questions on which evidence relative to the non-suspended uses of silvex shall be taken at the Section 6(b)(2) hearing.

With respect to the use of silvex on rice, rangeland, sugarcane, orchards, and non-crop areas, evidence will be taken as to the following questions: [9]

(1) Whether the use of silvex on rangeland generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(2) Whether the use of silvex on rice generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(3) Whether the use of silvex on sugarcane generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(4) Whether the use of silvex on orchards generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice; and

(5) Whether the use of silvex on non-crop areas generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(6) Whether the use of silvex on rangeland, rice, sugarcane, orchards, and non-crop areas will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice unless modifications more restrictive than those currently employed are accomplished; and

(7) Whether, if modifications to the terms and conditions of registration are accomplished, the labeling of silvex products for these uses will comply with the provisions of FIFRA.

In considering these issues and whether or not to participate in a hearing on these issues, it should be clearly understood that these and other uses of silvex may be cancelled as a result of evidence presented and actions taken in the Section 6(b)(2) hearing.

[9] Because the Agency plans to propose that this FIFRA 6(b)(2) hearing on the non-suspended uses of silvex be consolidated with a proposed FIFRA 6(b)(2) hearing on the non-suspended uses 2,4,5–T and the FIFRA 6(b)(1) hearing, already in progress, for the suspended uses of 2,4,5–T and silvex, the consolidated hearing would review uses of both silvex and 2,4,5–T. The statement of issues refers only to those issues which are specific to the non-suspended uses of silvex. It is important to emphasize that this Notice is specific to the non-suspended uses, and that other issues would be addressed in the hearing as a whole.

IV. Procedural Matters

This Notice of Determination notifies the United States Department of Agriculture, the Scientific Advisory Panel, pesticide registrants and users, and other interested parties of the Agency's preliminary determinations relating to the risks and benefits of the non-suspended uses of silvex, and provides these entities and individuals with opportunity to comment on these determinations.

As discussed in section II of this notice, the Agency's decision to initiate the regulatory actions described in section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. In accordance with FIFRA, the EPA position document setting forth in detail the reasons and factual bases for the regulatory actions which the Agency proposes and this notice of determination are being transmitted immediately to the Secretary of Agriculture and to the Scientific Advisory Panel for comment.[10]

The Agency also is transmitting copies of these documents to silvex registrants, and is offering registrants and other interested parties an opportunity to comment on the bases for the Agency's action by making copies of the Position Document available upon request. Interested persons may receive copies of the documents by communicating their requests to Michael Dellarco, Project Manager, Special Pesticide Review Division (TS–791), EPA, Room 447, 401 M St. S.W., Washington, D.C. 20460. Registrants and other interested persons will be given the same period of time to subnmit comments—30 days—that FIFRA provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any

[10] FIFRA Section 6(b) also provides that upon a finding by the Administrator that suspension of a pesticide registration is necessary under § 6(c) of FIFRA to prevent an imminent hazard to human health, he may waive these external review requirements. In his Emergency Suspension Orders Regarding Registrations of Pesticide Products Containing Silvex, the Administrator made such findings (44 FR 15901, March 15, 1979). Accordingly, in the Notices of Intent to Cancel the Registrations or Change the Classifications of Pesticide Products Containing Silvex and the Statement of Reasons (44 FR 15919, March 15, 1979), the Administrator specifically invoked that authority and waived the external review requirements for the actions initiated by the Suspension Orders.

changes in the regulatory actions announced in this notice which it determines are appropriate.

The Agency's analysis of the comments received during the external review period may lead to withdrawal or modification of the section 6(b)(2) notice of intent to hold a hearing. Alternatively, if the Notice is not withdrawn, the Agency intends to petition the Administrative Law Judge to consolidate the FIFRA section 6(b)(2) hearing on the suspended uses of silvex with the FIFRA section 6(b)(1) hearing on the suspended uses of silvex.

Until this external review phase is concluded and the Agency issues final notices, it is unnecessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from issuance of this notice.

All comments on the proposed actions should be sent to the Document Officer, Chemical Information Division, Office of Toxic Substances (TS–793), EPA, Room 447, East Tower, 401 M Street, S.W., Washington, D.C. 20460. In order to facilitate the work of the Agency and of others interested in inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation OPP/30000/—, and should be submitted on or before August 16, 1979.

Dated: July 9, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79–22050 Filed 7–16–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 6, 1979, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–2451–4.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. 2451–4, between the Port of Seattle (Port) and Sea-Land Service, Inc. (Sea-Land) modifies the basic agreement between the parties providing for Sea-Land's lease of container cranes at the terminal facility leased to it by the Port under Agreement No. T–2005 as amended. The modification provides for a 5-year extension of the term of the agreement and establishes a revised bonding provision.

Agreement No.: T–3098–3.

Filing Party: Cyrus C. Guidry, Port Counsel, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No. T–3098–3, between the Board of Commissioners of the Port of New Orleans and Atlantic and Gulf Stevedores, Inc. (A & G), motifies the parties' basic agreement which provides for the five-year lease to A & G of certain public facilities at New Orleans, Louisiana, to be used in the handling of bulk commodities. The purpose of this modification is to implement an air control program as required by the Lousiana Air Control Commission, and to provide for the cost of such implementation to be shared between the parties. The amendment also provides for a reduction of 13 percent of the minimum rent, as well as a waiver by A & G of its right to renew the lease.

Agreement No.: T–3826.

Filing Party: Richard A. Lidinsky, Jr., Acting Director of Tariffs & National Port Affairs, Maryland Port Administration, The World Trade Center, Baltimore, Maryland 21202.

Summary: Agreement No. T–3826, between the Maryland Port Administration (MPA) and Maryland Undercoating Company, Inc. (Maryland Undercoating), provides for the consolidation of previous monthly leases covering 6.53 acres at Dundalk Marine Terminal in the Port of Baltimore for the monthly rental of $2,286.00, plus payment for utilities, taxes, and improvements to the property. The term of the initial lease is for 5 years, with two successive 5-year renewal options. The facilities are to be used exclusively for the purpose of cleaning, cosmolining, decosmolining, undercoating, and related servicing of motor vehicles in waterborne commerce.

Agreement No. 6010–22.

Filing party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Summary: Agreement No. 6010–22, modifies the voting provisions of Article 10(a) of the basic agreement of the Straits/New York Conference to reduce the vote required for rate actions from a two-thirds majority to a simple majority of the members present and voting.

Agreement No. 7770–18.

Filing party: Howard A. Levy, Esq., Attorney at Law, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 7770–18 would amend the North Atlantic French Atlantic Freight Conference agreement by modifying (1) Article XI to provide that motions on all matters may be considered and acted upon between meetings by poll; that such polls may be conducted by letter, telex, telephone or other means of communication; and that all matters considered and all actions taken pursuant to any poll shall be reported to the Commission within 30 days; and (2) Article XIII to clarify voting procedures and to provide that no member may hold more than one proxy but the Chairman may hold multiple proxies.

Dated: July 11, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79–21952 Filed 7–16–79; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Early Termination of Waiting Period of the Premerger Notification Rules; Viag AG and Hoechst AG

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Viag AG and Hoechst AG are granted early termination of the waiting period provided by law and the premerger notification rules with respect to their proposed acquisition of certain assets of BOC International Limited. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both Viag AG and Hoechst AG. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **FEDERAL REGISTER.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79–21974 Filed 7–16–79; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of Waiting Period of the Premerger Notification Rules; Amax Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting-period of the premerger notification rules.

SUMMARY: Amax Inc. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain voting securities of Adobe Oil & Gas Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Amax Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79–21975 Filed 7–16–79; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of Waiting Period of the Premerger Notification Rules; John J. McMullen

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting-period of the premerger notification rules.

SUMMARY: John J. McMullen is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to his proposed acquisition of certain voting securities of Houston Sports Association, Inc. from Ford Motor Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mr. McMullen. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodnio Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79–21976 Filed 7–16–79; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of Waiting Period of the Premerger Notification Rules; ConAgra, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: ConAgra, Inc. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Midwest Agriculture Warehouse Co. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by ConAgra, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580. (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79–21977 Filed 7–16–79; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of Waiting Period of the Premerger Notification Rules; Mobil Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Mobil Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of International Paper Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mobil Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 5, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and section 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79–21978 Filed 7–16–79; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt and Approval of a Proposed Reporting Requirement

On July 5, 1979, GAO's Regulatory Reports Review Staff received a proposed requirement which the Civil Aeronautics Board (CAB) will use to collect information from certain air carriers. CAB submitted the requirement to us so that we could conduct our clearance review as required by the Federal Reports Act, 44 U.S.C. 3512 (c) and (d). We are publishing this notice to inform the public of our receipt of this requirement and the action we took.

Civil Aeronautics Board

CAB requested emergency clearance of the reporting requirments contained in Board Order 79–7–27, which was issued on July 5, 1979. This Order permits carriers who conduct charter flights to transfer passengers from charter flights to scheduled service when a charter flight is canceled because of a lack of fuel. This authority lasts through September 6, 1979.

In addition to allowing this exemption to section 409 of the Federal Aviation Act and Part 221 of the Board's Economic Regulations, this Order requires carriers who use this transfer authority to report related information the Board. CAB requested emergency clearance because the need for this exemption is greatest during the summer months and CAB wanted to make this opportunity available as soon as possible.

CAB estimates that 20 carriers will file these reports on two separate occasions, that each response will require one hour, and that the total respondent burden of this reporting requirement will be 40 hours.

We granted clearance for this reporting requirement on July 5, 1979, under number B–180226 (R0653).

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79–21968 Filed 7–16–79; 8:45 am]

BILLING CODE 1610–01–M

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 10, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 6, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Nuclear Regulatory Commission

The NRC requests clearance of a new, single-time questionnaire titled "Internal Seal Leakage of LPRM Detector/Cable Housing". The questionnaire will be sent to certain Boiling Water Reactor (BWR) licensees to obtain information concerning LPRM Detector/Cable Housing Leakage. Local Power Range Monitor (LPRM) non-linearity and drift have occurred at some operating BWR's due to fast neutron damage to the ceramic-to-metal seal which isolated the pure Argon gas in the LPRM chamber from the Argon-air mixture in the cable. Any change in concentration or composition of the gas in the chamber results in a change in the detector output due to a change in the ionization produced in the gas. The NRC staff has reviewed recent data and has determined that drift and uncertainty of the output from the neutron detectors (LPRMs) that provide input to the APRM Safety System and to the RBM Safety-Related system may be excessive. The LPRM detector output is also the primary signal used to provide the operator with the readout of neutron (thermal) power. Because each of the above considerations is important to plant safety, given an anticipated transient or a loss of coolant accident (LOCA), it is important to determine the magnitude of the drift (as a function of time) for each plant. It is also important to establish the criteria based on limits and on operating history that establishes when a detector is no longer acceptable as a plant safety system detector. This matter has been discussed with General Electric. In order to make a further determination concerning instrumentation systems, the NRC requires additional information from licensees. The questionnaire is being utilized to obtain that information. The NRC estimates that 15 licensees operating 25 plants will be respondents and that the burden for preparation of a response for each plant will average 80 hours.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79–21969 Filed 7–16–79; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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. Orthopedic Devices Section of the Surgical and Rehabilitation Devices Panel.	August 3, 9 a.m., Room 339A, 200 Independence Ave. SW., Washington, DC	Open public hearing 9 a.m. to 10 a.m.; closed committee deliberations 10 a.m. to 5 p.m.; James G. Dillon (HFK-410), 5600 Fishers Lane, Rockville, MD 20857, 301-427-7238.

General function of the Committee. 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 persons are encouraged to present information pertinent to classification of orthopedic devices to James G. Dillon. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify James G. Dillon by July 20, 1979, 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.

Closed committee deliberations. The Committee will discuss premarket approval application. 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. Immunology Devices Section of the Immunology and Microbiology Devices Panel.	August 16 and 17, 9 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, MD.	Open public hearing August 16, 9 a.m. to 10 a.m.; closed committee deliberations August 16, 10 a.m. to 5 p.m.; August 17, 9 a.m. to 5 p.m.; Srikrishna Vadlamudi (HFK-440), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

General function of the Committee. 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 persons are encouraged to present information pertinent to the use of the alpha fetoprotein test for detection of neural tube defects to Srikrishna Vadlamudi. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Srikrishna Vadlamudi by August 6, 1979, 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.

Closed committee deliberations. The Committee will review and discuss premarket approval applications. 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
3. Circulatory Systems Devices Panel	August 17, 9 a.m., Rm. 1813, 200 C St. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 2 p.m.; closed committee deliberations 2 p.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

General function of the Committee. 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 persons are encouraged to present information pertinent to

classification of circulatory systems devices to Glenn Rahmoeller. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Glenn Rahmoeller by August 10, 1979, 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 Committee will discuss comments which FDA received in response to proposed cardiovascular device classifications and recommend revisions as may be appropriate.

Closed committee deliberations. The Committee will discuss premarket approval applications. 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 hearings, (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 thant 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), permits 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 durgs 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: July 12, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–22068 Filed 7–16–79; 8:45 am]

BILLING CODE 4110–03–M

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. Miscellaneous External Drug Products Panel.	August 3 and 4, 9 a.m., Conference Rm. B, Parklawn Bldg.; 5600 Fishers Lane, Rockville, MD. (August 3), Holiday Inn, Bethesda, MD. (August 4)..	Open public hearing August 3, 9 a.m. to 10 a.m.; open committee discussion August 3, 10 a.m. to 4:30 p.m.; August 4, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD–510), 5600 Fishers Lane, Rockville, MD 20857, 301–443–1430.

General function of the Committee. 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 Committee. Those who desire to make such a presentation should notify the contact person before July 23, 1979, 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 in response 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, place	Type of meeting and contact person
2. Panel on Review of Allergenic Extracts	August 9, 10, and 11, 2:30 p.m., Rm. 719, 11400 Rockville Pike, Rockville, MD	Open public hearing August 9, 2:30 p.m. to 3:30 p.m.; open committee discussion August 9, 3:30 p.m. to 5:30 p.m. August 10, 8 a.m. to 5:30 p.m., August 11, 8 a.m. to 12:30 p.m.; Clay Sisk (HFB–5), 8800 Rockville Pike, Bethesda, MD 20014, 301–443–5455.

General function of the Committee. The Committee reviews and evaluates available data on 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. The Committee will review the final sections of the Panel report to include epidermal extracts, pollen extracts, insect extracts, alum precipitated allergenic extracts, plant oleoresins, and recommendations on standardization, manufacturing, and future clinical testing of allergenic extracts.

Committee name	Date, time, place	Type of meeting and contact person
3. Oral Cavity Panel	August 14 and 15, 9 a.m., Conference Rm. M, Parklawn Bldg; 5600 Fishers Lane, Rockville, MD.	Open public hearing August 14, 9 a.m. to 10 a.m.; open committee discussion August 14, 10 a.m. to 4:30 p.m.; open public hearing August 15, 9 a.m. to 10 a.m.; open committee discussion August 15, 10 a.m. to 4:30 p.m.; John T. McElroy (HFD–510), 5600 Fishers Lane, Rockville, MD 20857, 301–443–1430.

General function of the Committee. 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 Committee. Those who desire to make such a presentation should notify the contact person before July 31, 1979, 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 in response 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, place	Type of meeting and contact person
4. Antimicrobial Panel	August 17 and 18, 9 a.m. Conference Rm. K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, (August 17); Holiday Inn, Bethesda, MD, (August 18)..	Open public hearing August 17, 9 a.m. to 10 a.m.; open committee discussion August 17, 10 a.m. to 4:30 p.m.; August 18, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD–510), 5600 Fishers Lane, Rockville, MD 20857, 301–443–6057.

General function of the Committee. 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 Committee. Those who desire to make such a presentation should notify the contact person before August 14, 1979, 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 Committee will review data submitted in response 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, place	Type of meeting and contact person
5. Ad Hoc Subcommittee of the Drug Abuse Advisory Committee to Study the "Effects of Scheduling".	August 24 and 25, 9 a.m., Conference Rm. O, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. (August 24), Holiday Inn, Chevy Chase, MD. (August 25)..	Open public hearing August 24, 9 a.m. to 10 a.m.; open committee discussion August 24, 10 a.m. to 4:30 p.m.; August 25, 9 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 Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

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 subcommittee will prepare its report to the Drug Abuse Advisory Committee on its study of the "effects of scheduling."

Committee name	Date, time, place	Type of meeting and contact person
6. Peripheral and Central Nervous System Drugs Advisory Committee.	August 27 and 28, 9 a.m., Conference Rm. O, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD..	Open public hearing August 27, 9 a.m. to 10 a.m.; open committee discussion August 27, 10 a.m. to 4:30 p.m.; August 28, 9 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 Committee. The Committee reviews and evaluate available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of neurological disease.

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 discuss safety and effectiveness of papaverine, ethaverine, and similar or related drugs; and evaluate safety and effectiveness of aspirin in transient ischemic attacks.

FDA public advisory committee meeting 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.

Person's interested in specific agenda items to be discussed in open session may ascertain from the contact persons 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.

Dated: July 12, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22069 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78M-0115]

Burton, Parsons & Co.; Premarket Approval of Preflex® and Flex-Care™ Solutions

Correction

In FR Doc. 18306, published at page 34643, on Friday, June 15, 1979, in the third column, in the last paragraph, in the second line, "July 1, 1979" should be corrected to read "July 16, 1979".

BILLING CODE 1505-01-M

[Docket No. 76N-0064]

Drug Products Containing Papaverine of Ethaverine and Similar or Related Drugs; Extension of Time for B. F. Ascher & Co.

Correction

In FR Doc. 79-19583 appearing at page 36479 in the issue for June 22, 1979, make the following correction: On page 36482, in the first column, in the first paragraph, in the 4th line, substitute "August 21, 1979" for "August 13, 1979".

BILLING CODE 1505-01-M

[Docket No. 78P-0078]

Newport Research Corp.; Approval of Variance for Laser-Aimed Firearms

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces that a variance from the performance standard for laser products has been approved for an alignment laser product identified as a laser-aimed firearm. The product is designed to produce a narrow laser light beam that is aligned parallel to the firearm bore and that projects a visible spot of light that serves as a means for improving aiming speed and accuracy. The product is used only for law enforcement and military purposes.

DATES: The variance becomes effective August 16, 1979, and ends August 17, 1984; written objections and supporting data by August 16, 1979.

ADDRESS: Written objections and supporting data may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX–460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: The Newport Research Corp., 18235 Mount Baldy Circle, Fountain Valley, CA 92708, submitted an application for a variance from certain provisions of the laser products performance standard (21 CFR 1040.10 and 1040.11) for its laser-aimed firearms. The variance is approved under § 1010.4 (21 CFR 1010.4), which authorizes the granting of variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (the act) (42 U.S.C. 263f).

The laser-aimed firearms manufactured by the Newport Research Corp. are regarded as alignment laser products as defined in § 1040.10(b)(35) (21 CFR 1040.10(b)(35)), subject to the special requirements of § 1040.11(b)(1) and (2) (21 CFR 1040.11(b)(1) and (2)). Section 1040.11(b) requires that alignment laser products comply with all of the applicable requirements of § 1040.10 for Class I, Class II, or Class III products. It also requires that alignment laser products shall not permit human access, as defined in § 1040.10(b)(12), to laser radiation in the wavelength range of greater than 400 nanometers with a radiant power that exceeds 5.0×10^{-3} watts for any emission duration greater than 3.8×10^{-4} seconds; in addition, the accessible emission limits of Class I may not be exceeded for alignment laser products which utilize any other combination of emission duration and wavelength range.

Under the terms of this variance, the Newport Research Corp. laser-aimed firearms will deviate from the requirements of § 1040.10 in that the product will not be provided with the performance features of a remote control connector (§ 1040.10(f)(3)), key control (§ 1040.10(f)(4)), emission indicator, (§ 1040.10(f)(5)(ii)), and beam attenuator (§ 1040.10(f)(6)).

The applicant advises that laser-aimed firearms are revolvers, riot shotguns, assault rifles, and submachine guns with a built-in class IIIb Helium-Neon laser and a self-contained, battery-driven, power supply. The laser built into each weapon projects an intense, collimated beam of red light parallel to the longitudinal axis of the weapon bore. The beam is forward of the weapon muzzle and is directed down range toward the intended target by the operator. The applicant advises further that class IIIb levels of accessible radiation ranging from 2 to 5 milliwatts are necessary for the product to perform its intended function—aiming the weapon. The applicant states that the product can be used in situations where operators of the product will find it difficult to see the reflection of the beam from the target—e.g., targets in brightly lit areas, targets of dark color, and targets at long range—and in situations requiring immediate response.

A normally-off, momentary pressure switch connected to the weapon trigger controls the emission of radiation. The sighting laser is turned on by applying a slight pressure to the trigger. The travel of the trigger required to turn the laser on, thereby causing the emission, is much less than that required to fire the weapon. The sighting laser is turned off, thereby terminating the laser radiation emission, by releasing the pressure on the weapon trigger.

The applicant advises that the Newport Research Corp. laser-aimed firearms will be used on a controlled basis by trained military personnel and law enforcement officers in marksmanship training, routine law enforcement and crime prevention, hostage rescue, and riot control. The applicant asserts that the operator will be trained to use laser radiation for sighting purposes only at appropriate times. Laser radiation, when produced, will be directed at intended human or other targets during tactical operations that represent potential or actual life-or-death situations. Laser radiation will also be produced during tactical training that simulates life-or-death situations and during target practice and weapons familiarization programs. In all cases, production of laser radiation emissions will be carried out under the expert judgment and control of trained military personnel and law enforcement officers.

The applicant has requested a variance from the performance requirements for a remote control connector (§ 1040.10(f)(3)), emission indicator (§ 1040.10(f)(5)(ii)), beam attenuator (§ 1040.10(f)(6)), and key control (§ 1040.10(f)(4)) on the general basis that these performance features are not appropriate for lethal firearms used exclusively in military and law enforcement agency applications. Generally, the applicant states that the four features would be inappropriate for the laser-aimed weapon on the basis that incorporation of these features would require installation of additional structures to contain them on weapons that are specifically designed to be lightweight, compact, and streamlined to facilitate fast handling in emergency situations.

Specifically, the applicant states that a remote control connector on a weapon designed to be personally operated and controlled by military and law enforcement personnel is inappropriate. There is no feasible tactical situation in which a remotely operated safety interlock or the remote operation of the sighting laser would be required, or even desirable. The incorporation of a remote control connector, the applicant states, could be hazardous to the operator in life-or-death situations, because it is subject to malfunction or unintentional misuse. A suitable means of radiation protection is provided as a result of the operator's normal rules of conduct. In accordance with an operator's training, when the weapon is employed in life-or-death situations, the operator will direct the laser radiation emission(s) only at intended targets. At all other times the weapon would be aimed at targets for training applications, holstered, as in the case of handguns, or handled with the finger removed from the trigger (laser-off position), as in the case of long guns (i.e., rifles, shotguns, etc.). In addition, operators are familiarized with the safety rule never to point weapons at humans in nontactical situations. Safety rules and procedures are explicitly reinforced in the user information provided with the laser products.

The applicant states that incorporating a visible or audible emission indicator, with emission delay on the laser-aimed weapon, would be potentially hazardous to an operator's life in tactical situations requiring maximum covertness, and also in emergency situations that require

immediate response. Suitable means of radiation protection are provided by the operator's normal training, experience, and rules of conduct that require the operator to control weapons at all times, and not to point them at unintended targets. Another means of radiation protection is provided by the operator's constant awareness of the functional state of the weapon, due to the normally-off, momentary switch that controls the emission of laser radiation. User information furnished with the product instructs the operator immediately to detach the battery pack (energy source) from the weapon should the switch malfunction to prevent the possibility of further emission of laser radiation.

The applicant states that incorporation of a beam attenuator onto the laser-aimed weapon is inappropirate and may be hazardous to an operator in tactical situations. A protruding beam attenuator could become snagged in an operator's clothing, thereby preventing the operator from responding immediately in an emergency. A beam attenuator is subject to malfunction or to unintentional misues. For example, if the beam attenuator were inadvertently left in the beam-blocking position, or if the beam attenuator malfunctioned in such a way as to delay or prevent the operator from disengaging it to the beam-on position, the operator would be unable to react quickly in life-or-death situations. Similarly, if, as a matter of routine, the operator were required to check the status of the beam attenuator before using the weapon, fast action during tactical procedures would be precluded. The applicant further states that there is no possible tactical procedure in which a beam attenuator would serve a useful function. The beam attenuator is intended to give the operator the ability to block the beam while adjustments are made on the laser product or related equipment, during which access to laser radiation is neither required nor desirable. In many laser products, the laser system must remain on during the adjustment procedures, although in other cases the laser system remains on at the discretion of the operator. In these cases, emission of laser radiation is not required for the product function. However, there may be a good reason for not terminating emission, or it may merely be inconvenient to do so. None of the above situations is likely to occur for the laser-aimed weapon because there are no adjustments that must be made during which it is necessary or desirable to sustain laser radiation emission with a beam attenuator engaged in a beam-blocking or attenuating condition. Therefore, because a beam attenuator could serve no useful function, its incorporation onto a laser-aimed weapon is inappropriate. Suitable means of radiation protection are provided by the operator's normal training and experience, and by rules of military and law enforcement agencies that require an operator to control weapons at all times and not to point the weapons at unintended targets. Additionally, the operator is constantly aware of the operational state of the weapon due to the normally-off momentary trigger switch that controls the ability of the weapon to produce laser radiation emission.

The applicant states that the addition of a key control to the laser-aimed weapon could be hazardous because a protruding key could become snagged in the operator's clothing, and prevent the appropriate response in a tactical situation. Also, a protruding key could be inadvertently displaced from or left in the off position, again, frustrating the appropriate response by an operator in a life-threatening situation. Routine checking of the position of the key before using the weapon in tactical situations would inhibit fast handling of the weapons in emerging situations. Keys and key switches are subject to malfunction, breakage, loss, or theft. All of the above factors would diminish reliability and could prevent usage of the laser-aimed weapon in tactical applications. A suitable means of radiation protection is achieved through the laser normally-off momentary switch connected to the weapon trigger. The operator is aware of the inability of the weapon to produce laser radiation without employment of finger pressure on the switch. Another suitable means of radiation protection is provided by the limited access of persons to the laser product because weapon sales or leasing by the applicant are restricted to governmental military and law enforcement agencies, who, in addition, control the access of persons to the arms supply. Thus, the possibility of access to the laser-aimed weapon by unauthorized, unqualified persons is remote.

The Newport Research Corp. application for variance has been reviewed by the Bureau of Radiological Health. The Director of the Bureau believes that the relatively new, commercial, laser-aimed firearms are alignment laser products, that, at the present time, the laser products standards (21 CFR 1040.10 and 1040.11(b)) do not appropriately address. Therefore, the Director has concluded that the laser-aimed firearm is intended for a special purpose and that incorporation of the features objected to by the applicant would inhibit the product from being employed effectively in emergency, life-or-death tactical situations in which immediate response by the operator is required, and under which conditions of malfunction or misue could be potentially hazardous to operators.

A means of radiation protection is provided by restricting sales of the product to military and law enforcement agencies that would limit access to the product. This action would inhibit use of the product by unauthorized an untrained persons. Thus, the use potential of the product is limited to routine and emergency tactical and training applications. In these applications, the potential for requiring the general public to be exposed to laser radiation emission above Class I levels is extremely remote. Another means for radiation protection is the normally-off, momentary switch that controls the emission of laser radiation. Because finger pressure must be kept on the trigger to sustain emission of laser radiation, the likelihood of the laser system being inadvertently turned on, or left in a condition of continuous operation, is eliminated. In the event of malfunction of the normally-off switch, where termination of laser radiation emission does not ensue immediately upon release of the trigger, the operator is instructed to remove the battery pack to terminate emission. Thus, the Director has also concluded that suitable means of radiation protection are provided.

Therefore, the Director of the Bureau of Radiological Health has approved the requested variance from 21 CFR 1040.10(f)(3, (4), (5)(ii), and (6) for the Newport Research Corporation laser-aimed firearms. The applicant will use suitable means of radiation protection as described in the variance application and below in accordance with § 1010.4(a)(2):

1. The sales and leasing of the laser-aimed firearms by the manufacturer or owner are to be restricted to governmental military and law enforcement agencies. The conditions of restricted sales and leasing are to be fully stated along with the user and purchasing information that is required under 21 CFR 1040.10(h).

2. The laser system incorporated into the laser-aimed firearm is to be nonremovable, 21 CFR 1040.10(c)(2).

3. The laser system is to be turned on only by using a normally-off, momentary switch whose actuation is significantly distinct, but not necessarily physically

separate, from the trigger action of the weapon itself to prevent inadvertent firing of the weapon.

The variance is granted for a period of 5 years. In accordance with § 1010.4(d), the applicant is directed to modify the tag, label, or other certification required by § 1010.2 (21 CFR 1010.2) under this variance to state the following: "This product is in conformity with DHEW performance standards for laser products under 21 CFR Part 1040, except with respect to those characteristics authorized by Variance No. 79001, effective August 16, 1979."

The agency has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment, and that an environmental impact statement is not required. A copy of the environmental impact assessment report is on file in the office of the hearing Clerk, Food and Drug Administration.

Variance No. 79001 becomes effective August 16, 1979, and ends August 17, 1984, unless written objections and supporting data are filed with the Hearing Clerk (HFA–305) on or before August 16, 1979, requesting that the variance be modified or not granted. If objections and supporting data are submitted, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Under § 1010.4(c)(3) the applicant will be notified of any stay by certified mail, and a notice of the stay will be published in the **Federal Register**. FDA will rule on the objections within 60 days. The ruling will be published in the **Federal Register** and constitutes final agency action subject to judical review under section 358(d) of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f(d)).

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–21964 Filed 7–16–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79N–0190; DESI 5378]

Amphetamines: Drugs for Human use; Drug Efficacy Study Implementation; Amendment or Previous Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its decision that the indication for the management of exogenous obesity should be removed from the labeling of drug products containing an amphetamine. An opportunity for hearing is offered in the notice.

DATE: Hearing requests due on or before August 16, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 5378, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–04, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto and notices of claimed investigational exemption for a new drug (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Administrative Proceedings Staff—Hearing Clerk Office (HFA–305), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI–35), Rm. 12A–12.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Ronald L. Wilson, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION:

Definition

For the purpose of this notice, the term "amphetamine," the name ordinarily used to designate the racemic form of the drug, is used to cover several drugs or isomers within a class, and the term "dl-amphetamine" is used when reference to the racemate is intended. Unless otherwise stated in the text, the term "amphetamine" includes dextroamphetamine, dl-amphetamine, methamphetamine (which is used in this notice to cover both the dextro-isomer and the racemate), a mixture of dextroamphetamine and dl-amphetamine, and salts of the drugs. The drug products described below, which are the subject of this notice, contain an amphetamine in either the single-entity or combination form.

1. NDA 5–378; Desoxyn Tablets containing 2.5 milligrams or 5 milligrams methamphetamine hydrochloride per tablet, Desoxyn Gradumet Tablets containing 5, 10, or 15 milligrams methamphetamine hydrochloride per tablet, and Desoxyn Elixir containing 20 milligrams methamphetamine hydrochloride per 30 milliliters; Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064.

2. NDA 5–540; Methedrine Tablets contining 2 milligrams or 5 milligrams methamphetamine hydrochloride per tablet; formerly marketed by Burroughs Wellcome & Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

3. NDA 5–756; Drinalfa Tablets containing 5 milligrams methamphetamine hydrochloride per tablet; E. R. Squibb & Sons, Inc., P.O. Box 400, Princeton, NJ 08544.

4. NDA 5–969; Racemic Desoxyephedrine Hydrochloride Tablets containing 5 milligrams dl-methamphetamine hydrochloride per tablet; High Chemical Co., 1760 N. Howard St., Philadelphia, PA 19122.

5. NDA 6–003; Miller-Drine Tablets containing 10 milligrams dl-methamphetamine hydrochloride per tablet; Smith, Miller & Patch, Inc., 401 Joyce Kilmer Ave., New Brunswick, NJ 08902.

6. NDA 10–093; Biphetamine "7½" Capsules, Biphetamine "12½" Capsules, and Biphetamine "20" Capsules, containing 3.75 milligrams, 6.25 milligrams, and 10 milligrams each of dextroamphetamine and amphetamine per capsule, respectively, all as cation exchange resin complexes of sulfonated

polystyrene; Pennwalt Prescription Products, 755 Jefferson Rd., Rochester, NY 14623.

7. NDA 11–522; Obetrol Tablets containing 2.5 milligrams or 5 milligrams of amphetamine asparate, amphetamine sulfate, dextroamphetamine saccharate, and dextroamphetamine sulfate, per tablet; Obetrol Pharmaceuticals, Division of Rexar Pharmaceutical Corp., 396 Rockaway Ave., Valley Stream, NY 11581.

8. NDA 12–042; Eskatrol Spansules containing 15 milligrams dextroamphetamine sulfate and 7.5 milligrams prochlorperazine maleate per sustained-release capsule; Smith, Kline & French Laboratories, 1500 Spring Garden St., Philadelphia, PA 19101.

9. NDA 17–071; Benzedrine Sulfate Spansule containing 15 milligrams of amphetamine sulfate per capsule; Smith, Kline & French Laboratories.

10. NDA 17–078; Dexedrine Spansules containing 5, 10, and 15 milligrams of dextroamphetamine sulfate per sustained release capsule; Smith, Kline & French Laboratories.

11. ANDA 83–563; Amphetamine Sulfate Tablets containing 5, 10, 15, or 20 milligrams of amphetamine sulfate per tablet; Delco Chemical Co., 7 MacQuesten Pkwy., North, Mt. Vernon, NY 10550.

12. ANDA 83–564; Delcobese Spansules containing 1.25, 2.5, 3.75, or 5 milligrams of amphetamine adipate, amphetamine sulfate, dexroamphetamine adipate, or dextroamphetamine sulfate per sustained release capsule; Delco Chemical Company.

13. ANDA 83–735; Dexampex Tablets containing 5 milligrams or 10 milligrams of dextroamphetamine sulfate; Lemmon Pharmacal Co., Sellersville, PA 18960.

14. ANDA 83–889; Methamphetamine Hydrochloride Tablets containing 10 milligrams of methamphetamine hydrochloride per tablet; Lemmon Pharmacal Co., P.O. Box 30, Sellersville, PA 18960.

15. ANDA 83–900; Benzedrine Tablets, containing 5 milligrams or 10 milligrams amphetamine sulfate; Smith, Kline & French Laboratories.

16. ANDA 83–902; Dexedrine Elixir containing 5 milligrams per 5 milliliters of dextroamphetamine sulfate; Smith, Kline & French Laboratories.

17. ANDA 83–903; Dextroamphetamine Sulfate Tablets containing 5 milligrams or 10 milligrams of dextroamphetamine sulfate per tablet; Lannett Co., 9000 State Rd., Philadelphia, PA 19136.

18. ANDA 83–930; Dextroamphetamine Sulfate Tablets containing 10 milligrams of dextroamphetamine sulfate per tablet; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.

19. ANDA 84–001; Ferndex Tablets containing 5 milligrams dextroamphetamine sulfate, Ferndale Laboratories, Inc., 780 W. Eight Mile Rd., Ferndale, MI 48220.

20. ANDA 84–051; Dextroamphetamine Sulfate Tablets containing 5 milligrams or 10 milligrams of dextroamphetamine sulfate per tablet; Rexar Pharmacal Corp., 396 Rockaway Ave., Valley Stream, NY 11582.

21. ANDA 84–125; Dextroamphetamine Sulfate Tablets containing 5 milligrams dextroamphetamine Sulfate; Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.

22. ANDA 84–931; Methamphetamine Hydrochloride Tablets containing 5 milligrams or 10 milligrams of methamphetamine hydrochloride per table; Rexar Pharmacal Corp.

23. ANDA 84–935; Dexedrine Tablets containing 5 milligrams of dextroamphetamine sulfate per tablet; Smith Kline & French Laboratories.

24. ANDA 84–986; Daro Tablets containing 5 milligrams of dextroamphetamine sulfate per tablet; Vitarine Co., Inc., 227–15 N. Conduit Ave., Springfield Gardens, NY 11413.

25. ANDA 85–212; Dextroamphetamine Sulfate Tablets containing 5 milligrams of dextroamphetamine sulfate per tablet; Stanrabs, Inc., Box 3108, Portland, OR 97208.

26. ANDA 85–370; Dextroamphetamine Sulfate Tablets containing 5 milligrams of dextroamphetamine sulfate per tablet; Cord Laboratories, 2555 W. Midway Blvd., Broomfield, CO 80020.

27. ANDA 85–371; Dextroamphetamine Sulfate Tablets containing 10 milligrams of dextroamphetamine sulfate per tablet; Cord Laboratories.

28. ANDA 85–892; Dextroamphetamine Sulfate Tablets containing 10 milligrams of dextroamphetamine sulfate per tablet; Vitarine Co.

29. ANDA 86–521; Dextroamphetamine Sulfate Tablets containing 5 milligrams of dextroamphetamine sulfate per tablet; M. M. Mast & Co., 4152 Ruple Rd., Cleveland, OH 44121.

30. Dexamyl Spansule Capsules and Tablets containing dextroamphetamine sulfate and amobarbital; Smith Kline & French Laboratories; products are not the subject of an approved NDA.

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).

Background

In a **Federal Register** notice of February 12, 1973 (38 FR 4249), the Food and Drug Administration revised 21 CFR 130.46 (subsequently recodified as 21 CFR 310.504) to announce its findings that single-entity oral anorectic drug products containing amphetamine or dextroamphetamine are effective as short-term adjuncts in the management of obesity. Amphetamine, dextroamphetamine, methamphetamine hydrochloride, and dl-methamphetamine hydrochloride were the subject of a Drug Efficacy Study (DESI) notice published in the **Federal Register** on July 19, 1974 (39 FR 26459). In that notice amphetamine and dextroamphetamine were evaluated as effective for the treatment of narcolepsy and minimal brain dysfunction in children, and all the drugs were determined to be effective as short-term adjuncts in the management of obesity.

In **Federal Register** notices of March 30, 1973 (38 FR 8290), September 35, 1973 (38 FR 26748), and May 23, 1975 (40 FR 22570), FDA withdrew approval of all combination products containing an amphetamine, except for Eskatrol Spansules (NDA 12–042), on the basis of a lack of substantial evidence of effectiveness and a lack of proof of safety. Hearing requests were submitted by Smith Kline & French in response to the **Federal Register** notice of February 12, 1973 (38 FR 4279) for Eskatrol Spansules and their Dexamyl products (related products which are not the subject of an approved NDA0. The hearing request for Eskatrol Spansules is still under review by FDA, while the hearing request for the Dexamyl products is the subject of a court ruling. *Smithkline Corp.* v. *FDA*, 58i7 F.2d 1107 (D.C. Cir. 1978). With respect to Eskatrol and Dexamyl, the action announced in this notice is in addition to the proceedings presently pending before the agency concerning those drugs.

In another notice of February 12, 1973 (38 FR 4249), the Commissioner of Food and Drugs recognized that the use of amphetamines for long periods of time may lead to drug dependence and abuse. Their potential for abuse is related to their action as a central

nervous system stimulant; they can produce intense psychological dependence and severe social dysfunction. When the drugs were approved for use as an adjunct in the management of obesity, they were approved on a benefit/risk basis which took into consideration their potential for abuse. By limiting the use of these drugs to a short period of time and reducing the opportunity for misuse through regulatory action, the Commissioner concluded that they met the safety requirements of the Federal Food, Drug, and Cosmetic Act and were appropriate, on a benefit/risk basis, for the treatment of obesity for a few weeks as an adjunct to a regimen of weight reduction based on caloric restriction. He stated, however, that persistent abuse of these drugs would necessitate taking further steps to restrict their availability and use.

The policy of the Food and Drug Administration regarding the use of amphetamines in the treatment of obesity, as stated in the February 12, 1973 notice (38 FR 4249), was promulgated as a regulation (21 CFR 310.504; formerly codified as 21 CFR 130.46). The regulation provides the marketing conditions for amphetamines and refers to their efficacy review which found limited effectiveness for the drugs in the treatment of obesity. In light of the conclusions in this notice concerning the marketing conditions for amphetamines, a future **Federal Register** notice will propose revocation of this regulation.,

In a **Federal Register** notice of October 14, 1977 (42 FR 55374), the Commissioner stated that legally manufactured and marketed amphetamines are continuing to be abused at a level that constitutes an apparently significant public health problem. He further stated that recent information made available to FDA has revealed that, in spite of the restrictions imposed over the last 5 years, there is evidence for the following conclusions:

1. Among prescription drugs, the anorectic agents are commonly used for nonmedical purposes.

2. Among the anorectic drugs, amphetamines account for more abuse episodes than other drugs in the class and also have the highest rate of abuse of all drugs in the class.

3. There has been no significant decrease in the rate of abuse of amphetamines over the past 3 years. The major reduction in their abuse appears to have occurred between 1970 and 1973 as a result of regulatory actions taken during that time, and little additional change has occurred since then.

4. A significant amount of the amphetamines used for abuse purposes comes from supplies that are legally manufactured, shipped, or prescribed.

5. There is no new evidence to challenge the previous FDA conclusion that amphetamines have no advantage over the nonamphetamine anorectic drugs as an adjunct in the treatment of obesity.

The October 14, 1977 notice also stated that because of this continuing level of abuse of amphetamines, the Commissioner believes that, consistent with his stated intent in the February 12, 1973 notice, further action under the act may be necessary to protect the public health. To provide an open forum for comments on information provided in the notice on the abuse of legally manufactured amphetamines, the Commissioner announced that a public hearing would be held on December 2, 1977. He specifically requested well-documented comment on the merits of the following possible course of action:

1. Remove the anorectic indication from the labeling of amphetamine drug products.

2. Retain the indication of narcolepsy for dextroamphetamine and dl-amphetamine products, and retain the indication of minimal brain dysfunction for dextroamphetamine, dl-amphetamine and methamphetamine products. (A notice published in the **Federal Register** of October 24, 1978 (43 FR 49573) eliminated the term "minimal brain dysfunction" from physician labeling in order to more accurately describe the behavioral syndromes of this indication.)

3. Require patient labeling which would provide certain information on use and warnings concerning the potential for abuse of these drugs.

On November 22, 1977 (42 FR 59917), the agency announced that the administrative record of the public hearing would remain open for 30 days after the December 2, 1977 hearing to permit sufficient time for all interested persons to submit written data, information, or views on the current patterns of medical use and abuse of amphetamines.

Review of Testimony and Written Submissions

Since the public hearing was held, FDA has carefully reviewed the testimony and written submissions (written submissions will hereafter be referred to in the text as comments). Among those who participated in the public hearing or submitted comments were representatives from the Drug Enforcement Administration, National Institute of Drug Abuse, Canadian Ministry of Health, the academic and scientific community, industry groups, health organizations, and consumer groups. A total of 36 persons gave testimony and 31 persons submitted comments. Of the 55 persons who testified or commented on the removal of the anorectic indication from the labeling of amphetamine products, 30 persons supported the action, while 25 persons opposed it. The 14 persons who testified or commented on retaining the indication of narcolepsy and minimal brain dysfunction presented unanimous support for this action. Of the 14 persons who testified or commented on patient labeling for amphetamine products, 12 supported the action, while 2 opposed it. The most substantial testimony and comments have been identified and are briefly discussed below in alphabetical order according to the last name of the person:

1. *Mr. Peter Bensinger, Administrator of the Drug Enforcement Administration (DEA).*—Mr. Bensinger reported that substantial evidence has been presented for many years to FDA and Congressional committees which shows that amphetamines are frequently used for nonmedical purposes by a sizable segment of the population, that such use can result in severe physical and psychological impairment, and that legally manufactured products provide for and sustain such usage. On the diversion of legally manufactured products, he stated that DEA estimates that reported thefts account for roughly one-tenth of the amphetamines actually diverted, the remaining nine-tenths being diverted primarily through promiscuous script writing physicians, forged prescriptions, illegal sales, and dispensing fat clinics. According to Mr. Bensinger, a principal factor in the higher rate of diversion for amphetamines is their ready availability through dispensing physicians. He reported that one physician in New England was responsible for dispensing 2 percent of the annual methamphetamine quota of the United States, or roughly one million dosage units. He added that despite the expenditure of substantial resources to bring action against this physician, the approved indication for short-term obesity treatment provides this physician and many others with considerable latitude to skirt the law.

2. *Dr. David Brillinger, Professor of Statistics, University of California at Berkeley.*—Dr. Brillinger stated that

neither the October 14, 1977 notice nor the IMS America report presents a complete statistical analysis of the time series data since they did not spell out the assumptions of the fitted statistical models on which their conclusions are based. He stated that the conclusions of the report and the notice appear essentially subjective. He concluded that the assumptions and validity of statistical models, confidence intervals, error analysis, and possible component series should be explored in the prediction of DAWN mentions data.

3. *Dr. James Cooper, Director of the Office of Medical and Professional Affairs at the National Institute on Drug Abuse (NIDA).*—Dr. Cooper stated that NIDA believes that the benefits of amphetamines to the individual and the public in the treatment of obesity are outweighed by the public health risks associated with the use of these substances. The data sources available to NIDA show that incidence and prevalence of non medical use of amphetamines remain high. He reported that, despite the prescribing of alternative non amphetamine anorectics, the strict scheduling of amphetamines, and the exercising of restraint by physicians in prescribing amphetamines, data suggest that the incidence and prevalence of non medical use of amphetamines is actually increasing, particularly among the young. Based on an analysis of these data which was summarized in his testimony, Dr. Cooper stated that NIDA supports removing the indication for obesity from amphetamines, and requiring that package labeling warn consumers of the potential harmful effects of amphetamines from continuous long-term use.

4. *Dr. John S. de Cani, Professor and Chairman, Department of Statistics, University of Pennsylvania.*—Dr. de Cani disagreed with FDA's decision to exclude the DAWN data from consistently reporting crisis centers. He also suggested using the amphetamine quota data instead of prescription data to calculate the denominator for the problem index (abuse rate).

Dr. de Cani stated that for all Schedule II anorectic drugs, the average number of monthly DAWN mentions decreased from 1974 through 1976 for each of the four consistently reporting facility groups (crisis centers, emergency rooms, medical examiners, and all facilities). For example, in Table 1 of his testimony, Dr. de Cani observed that the average number of monthly DAWN mentions decreased 20.7 percent from 1974 to 1975 and 5 percent from 1975 to 1976 for emergency rooms; for medical examiners the decreases were 27.6 percent from 1974 to 1975 and 27.3 percent from 1975 to 1976. Dr. de Cani also stated that for all Schedule II anorectic drugs, the number of average monthly DAWN mentions per 1,000 kilograms of amphetamine quota decreased from 1974 through 1976 for each of the four facility groups.

5. *Dr. John D. Griffith, Chief of the Stimulant Unit of the Addiction Research Center (NIDA).*—Dr. Griffith testified that amphetamine abuse is not a harmless practice, but can produce severe adverse effects and dependency on the drug. He stated that dependency often begins with a therapeutic use of the drug, but the use escalates into a chronic, repetitive pattern. This dependency, according to Dr. Griffith, becomes very serious when the chronic use of amphetamines produces insomnia and anxiety, among other symptoms, which gives the person the predisposition to use or abuse barbiturates, alcohol, and minor tranquilizers. He further stated that dependency on amphetamines is as difficult to treat as narcotic addiction. Dr. Griffith also testified that amphetamines are now known to produce a psychosis of a paranoid type which may result from either chronic or acute exposure to amphetamines. A month's prescription for an amphetamine will, according to Dr. Griffith, produce a psychosis in perhaps 80 percent of the patients if the drug is taken improperly. Furthermore, he stated that there is no valid method for identifying or excluding patients who are sensitive to amphetamines as to dependency or psychosis or both. In conclusion, he stated that patients are not only placed at risk when they use amphetamines, but are given a drug that is not much better than placebo for weight loss.

6. *Dr. Lester Grinspoon, Associate Professor of Psychiatry at Harvard University.*—Dr. Grinspoon supports the removal of the anorectic indication from the labeling of amphetamines. He reported that there appear to be few conditions that justify prescribing amphetamines. He questioned the use of amphetamines for weight reduction under any circumstances. He commented that after the 3–4 week euphoric high, which may cause diminished food intake and consequent weight loss, amphetamines are no longer effective as anorectics unless the user increases the dose, thus initiating a pattern of abuse. He commented that amphetamines are useful to a very select group suffering from certain varieties of narcolepsy and a number of truly hyperkinetic children, but should be prescribed only after their potential dangers are carefully weighed against their possible value.

7. *Dr. John Henderson, Director of the Bureau of Drugs and Health Protection Branch of the Canadian Ministry of Health.*—Dr. Henderson stated that legislation passed in Canada on November 1, 1971, essentially restricted the use of amphetamines to the treatment of narcolepsy, hyperkinetic disorders in children, mental retardation, epilepsy, and Parkinsonism. Any physician who needs to prescribe amphetamines for individual patients for conditions outside the approved list must obtain the authorization of the Bureau of Drugs of the Health Protection Branch. Dr. Henderson pointed out that only 36 such requests have been received for the 12-month period preceding November 1977. As there are 38,000 physicians in Canada, he observed that "Canadian physicians are practicing a high standard of medical care with a very low use of the more hazardous members of the amphetamine class of drugs." After Canada passed the legislation in 1971 that virtually ended the use of amphetamines for treating obesity, the importation of amphetamine drugs (amphetamines are not manufactured in Canada) had dropped from 757 kilograms in 1971 to 0.710 kilograms in 1977.

8. *Mr. David Joranson, Drug Abuse Policy Specialist with the Wisconsin Bureau of Alcohol and Other Drug Abuse and Dr. Karl Marquardt, Executive Secretary of the Pharmacy Examining Board of Wisconsin.*—Dr. Marquardt and Mr. Joranson conducted a study in Wisconsin on the abuse problem of a name brand amphetamine which involved a high volume of sales in some pharmacies. At the request of the Controlled Substances Board and Pharmacy Examining Board, they reviewed data that had been compiled and tabulated through the Automation of Reports of Consummated Orders System (ARCOS) of DEA and identified 465 pharmacies that had purchased 800,000 dosage units of this name brand amphetamine in 1975. Among these 465 pharmacies, 10 were identified as the purchasers of the largest quantity of this amphetamine product during 1975. The study then identified 73 physicians who had issued prescriptions for this amphetamine product which were subsequently dispensed by one or more of the 10 pharmacies during 1975. Of the total prescriptions written for this drug product by the 73 physicians, 82.7 percent were written by 8 physicians. One physician had issued 25 percent of

the total prescriptions written by the 73 physicians. Another physician among the 73 had issued 92 percent of his total prescriptions for this amphetamine product. As this name brand amphetamine is only one amphetamine product in Schedule II, Dr. Marquardt and Mr. Joranson pointed out that the problem could be much larger if other amphetamine abuse by overprescribing physicians is considered. They concluded that the problem probably extends to other States, as Wisconsin is ranked 27th in per capita consumption of amphetamines. Mr. Joranson also reported that the Controlled Substances Board supports the three actions outlined in the October 14, 1977 notice.

9. *Dr. Albert Madansky, Professor of Business Administration, University of Chicago.*—For IMS America's data (Figure 8 of the October 14, 1977 notice), Dr. Madansky proposed two different models to predict trends in DAWN mentions. From his first fitted quadratic model, Dr. Madansky predicted that the estimated minimum of the abuse trend occurred in October 1976. From his second logarithmic transformed model, Dr. Madansky predicted that in each year the number of mentions will decrease by 11 percent. He predicted that by the end of 1979, the level of deseasonalized Schedule II mentions from all consistently reporting facilities will drop to 313 per month.

For FDA's data (Figure 9 of the October 14, 1977 notice), Dr. Madansky stated that the statistically significant decreasing trend was found from January 1974 through December 1976 for the observed data (amphetamines mentions with other drugs). He also saw no significant correlation between the prescription sales and Schedule II DAWN mentions for all consistently reporting facilities. He then concluded that the FDA's abuse rate (DAWN mentions/prescriptions) does not provide reliable information about drug abuse.

10. *Dr. John W. Rupel, member of the Wisconsin Medical Examining Board.*—Dr. Rupel explained that the Wisconsin Medical Examining Board is the State governmental agency that licenses and disciplines physicians and defines acceptable standards of professional practice. After an investigation into the dispensing and prescribing of scheduled stimulant drugs by Wisconsin physicians, the Board found that approximately 2 percent of the State's physicians are responsible for prescribing and dispensing the total amount of scheduled anorectic drugs that reached the public through legal channels in 1975. The Board could find no credible scientific evidence that is statistically valid and reliable to show that any of the scheduled anorectic drugs had more than a trivial advantage, at best, over placebo therapy in either the short- or long-term management of obesity. Dr. Rupel reported the investigation revealed that, of all the scheduled anorectic drugs, amphetamines have the most serious and widespread abuse. The findings of the investigation were summarized by Dr. Rupel as follows:

> A tiny fraction of physicians in our State are prescribing and dispensing large amounts of abusable drugs for a condition for which these drugs offer very little, if any, prospect of benefit. The distribution of an abusable substance with no likelihood of significant gain to the patient is a danger to the health, safety, and welfare of the public, and as such constitutes unprofessional conduct.

After reviewing these findings, the Board promulgated an administrative rule that defines as unprofessional conduct the prescribing of an amphetamine for any purpose other than the treatment of narcolepsy, hyperkinesis, drug-induced brain dysfunction, certain refractory forms of depression, or clinical research under appropriate safeguards. Any Wisconsin physician who violates the rule does so at the risk of having his or her license to practice medicine suspended or revoked. In concluding his presentation, Dr. Rupel stated that the Wisconsin experience with amphetamines and the Board's findings clearly support the evidence set out in the October 14, 1977 notice. He urged the removal of the anoretic indication as it would directly assist the efforts to deal with the amphetamine problem at the State level.

11. *Dr. Philip Tannenbaum, Medical Director and Vice-President for Medical Affairs of Smith, Kline and French Laboratories.*—Dr. Tannenbaum said that FDA's use of the problem index or abuse rate (amphetamine DAWN mentions/amphetamine prescription sales) is debatable. He stated that the data bases used to derive this index would overestimate the numerator and underestimate the denominator. For this reason, the relative contribution of DAWN mentions from legitimately produced amphetamines would be overestimated. He suggested that a revised problem index for legitimately produced amphetamines should be used, i.e., DAWN mentions associated with legitimately produced amphetamines/prescription sales + direct physician dispensing + thefts.

Dr. Tannenbaum also disagreed with FDA's decision to exclude from the analysis the following consistently reporting DAWN mentions: all data from crisis centers, all mentions involving jargon terminology, and all mentions for phenmetrazine. He contended that without the above DAWN mentions, the DAWN data (DAWN amphetamine mentions together with other drugs) used in FDA's Figure 9 of the October 14, 1977 notice only accounted for one-fifth of the data included in Figure 8. He also stated that a 27-percent reduction in total DAWN mentions (amphetamine DAWN mentions with other drugs) was still observed between 1974 (1,655 mentions) and 1976 (1,209 mentions) if the data are used from Figure 9 of the October 14, 1977 notice.

12. *Dr. Kennard Yaffe, Chairman of the Committee on Drugs of the Maryland State Medical Society.*—Dr. Yaffe spoke about the promulgation of amphetamine regulations in the State of Maryland when it became apparent to physicians of Maryland that amphetamines were severely abused and that the benefits from their use were very limited. "The benefits," according to Dr. Yaffe, "were thought to be of value in narcolepsy and the hyperkinetic syndrome of childhood, and the greatest abuse was thought to derive from prescribing by physicians of amphetamines for obesity." He briefly described the regulations as allowing amphetamines, except for methamphetamine, to be prescribed for narcolepsy and hyperkinetic syndrome of children, and requiring the conditions to be well documented in the physician's record. For other used, "the physician must ask permission from the Division of Drug Control, setting forth the problem in such detail as to permit a reasoned judgment to be made." Dr. Yaffe stated that this program has produced a sharp decline in the prescribing of amphetamines in Maryland without any problems in the treatment of obesity. He added that the removal of the anorectic indication would assist in reducing the abuse of amphetamines on the State level.

The transcript of the public hearing and a copy of all comments submitted is on file in the office of the Hearing Clerk at the address given above.

Findings of FDA

The testimonies of Drs. de Cani, Madansky, and Tannenbaum, and the comment of Dr. Brillinger were statistical criticisms of FDA's analysis of data provided to FDA from the DAWN system. After a review of their criticisms, the Director of the Bureau of Drugs finds no new information which refutes the conclusions of the October

14, 1977 notice (p. 55375) as revealed by the DAWN data. His response to these statistical criticisms of FDA's analysis of the DAWN and IMS America prescription data is as follows.

1. Dr. Brillinger's comments are valid regarding the assumptions and validity of statistical models, confidence intervals, error analysis, and possible component analysis. However, because of the limited number of data points available for our analysis (36 points), Dr. Brillinger's comments are somewhat more theoretical than practical. In response to Dr. Brillinger's comments, FDA has calculated the estimated slopes, the 95 percent confidence limits of the slopes, and the squared multiple correlation coefficient for several DAWN trend lines, to verify its statistical model. A statistically significant decreasing trend was found between January 1974 and December 1976 for amphetamine DAWN mentions with other drugs. For amphetamine mentions alone, however, no significant decreasing trend was found from January 1974 through December 1976.

2. The results of FDA's analysis of the DAWN data were quite different from Dr. de Cani's findings. For example, DAWN mentions in conjunction with other drugs for all Schedule II anorectics (including phenmetrazine), demonstrated only a 5-percent decrease from 1975 (90 mentions) to 1976 (85 mentions) for the medical examiners, compared to a 27.3-percent decrease cited by Dr. de Cani. The decrease was 1 percent from 1975 (1,334) to 1976 (1,314) for emergency room mentions, compared to a 5-percent decrease cited by Dr. de Cani. As for DAWN mentions alone for all Schedule II anorectic drugs, only a 0.9-percent decrease from 1975 (683 mentions) to 1976 (677 mentions) was found.

The figures cited in Table 2 of Dr. de Cani's testimony paper are also questionable. Because he also did not calculate the correlations between the DAWN mentions and the annual production quota data, his figures of average monthly DAWN mentions per 1,000 kilograms of amphetamine quota are not likely to be reliable.

3. Dr. Madansky failed to explain how satisfactorily his statistical models fit the observed data. He did not demonstrate that his proposed models were better than the linear models used by IMS and FDA for prediction purposes. His long-term extrapolation of the DAWN data to the end of 1979 by the fitted logarithmic model without explaining the appropriate validation procedures of the fitted model is not convincing.

Dr. Madansky evaluated only part of the data presented in the October 14, 1977 notice, namely the DAWN amphetamine mentions in conjunction with other drugs only; the amphetamine DAWN mentions alone were not analyzed. With regard to the correlation of prescription sales and DAWN mentions, his statement is true that there is no significant correlation between 1974 and 1976 for quarterly data. However FDA's reanalysis of the updated data base on monthly prescription sales and DAWN data from January 1974 through June 1978 does show statistically significant correlations.

4. As to Dr. Tannenbaum's comments on FDA's use of the abuse rate, the numerator of the abuse rate used by FDA does not appear to be overestimated. FDA excluded the jargon and crisis center data when calculating this numerator in order to avoid some of the previous criticisms of the DAWN data. Data were excluded from the DAWN crisis centers because of the invalidity of crisis center contacts, the influence of variable case-finding operations, and double counts. Data reported to DAWN in jargon terminology were also excluded because the reliability of the identification was more uncertain than when the report was made in standard medical terminology. In addition, FDA used the DAWN consistently reporting panel of emergency rooms and medical examiners to eliminate much of the instability of the DAWN system. These panels are composed of the facilities that have reported consistently during the time period studied. Thus, FDA's estimated level of abuse used in calculating the abuse rate is not necessarily overestimated as Dr. Tannenbaum indicated.

Dr. Tannenbaum commented that Figure 9 of the October 14, 1977 notice (FDA's data) shows a 27 percent decline in mentions with other drugs between 1974 and 1976. His calculation was based only on DAWN amphetamine mentions with other drugs. When the DAWN amphetamine mentions were examined alone, there was no apparent change between 1974 (604 mentions) and 1976 (621 mentions).

The Director thus finds no new information in the testimony and comments to refute the evidence of the October 14, 1977 notice on the current abuse of amphetamines. He does, however, find additional information which correlates the abuse of amphetamines with legitimate prescribing of the drugs for the treatment of obesity. He finds the testimony of Drs. Marquardt, Rupel, and Yaffe, and Messrs. Bensinger and Joranson especially revealing as to the substantial abuse of amphetamines by high volume prescribers and dispensers of the drug for the treatment of obesity. In addition, the testimonies of Drs. Henderson, Marquardt, and Yaffe demonstrate that when controls are instituted on prescribing amphetamines for this condition, the prescribing of the drugs decreases very sharply without any deprivation or harm to persons who have problems with obesity. Dr. Henderson's testimony further revealed that after legislation was passed in 1971, the overwhelming majority of the physicians in Canada did not request permission to use amphetamines in the treatment of obesity, which undoubtedly indicates that amphetamines are not an essential drug for this condition. Moreover, this information further corroborates the testimony of Drs. Griffith and Grinspoon, who find amphetamines to have limited effectiveness in weight loss.

As to retaining the indication of dl-amphetamine and dextroamphetamine for narcolepsy, and retaining the indication of dl-amphetamine, dextroamphetamine, and methamphetamine for the treatment of children with a behavioral syndrome, the testimony and comments presented on this issue unanimously supported the retention of these indications because of their medical benefit. With regard to their potential for abuse, the Director believes that with the removal of the anorectic indication from the labeling of amphetamine products, these remaining indications will not provide a source of the drugs for abuse. Because at least 80 percent of the legal medical use of these drugs has been for weight reduction, the recommended production quotas for amphetamines will be sharply decreased after the anorectic indication is removed. As this action will substantially reduce the major supply of legally manufactured and dispensed amphetamines, the abuse rate of the drugs will also be reduced as the major source of their diversion will be eliminated. The Director therefore concludes that the continued use of these drugs for narcolepsy and the treatment of children with behavioral syndromes at this time appears to have more medical benefit than risk for abuse.

The October 14, 1977 notice also invited participants to comment on the merits of requiring patient labeling which would provide warnings against using amphetamines for weight reduction (and against using

methamphetamines to treat narcolepsy). Based upon comments received and other available information, the Director concludes that this issue should be deferred until after the action proposed in this notice is implemented. If at that time he determines that legally manufactured amphetamines continue to be abused at an unacceptable level, he will consider patient labeling for amphetamines as an additional measure to curb their abuse. Patient labeling for amphetamines may also be required when the rules have been promulgated under which patient labeling will be required for prescription products in general.

Recent Information

Since the December 2, 1977 hearing, FDA obtained additional DAWN and National Prescription Audit (NPA) data through June 1978 which permitted an updated analysis. Furthermore, FDA was able to obtain data sets from January 1974 through June 1978 on a monthly basis rather than quarterly, thus providing many more individual data points on which to base the statistical analyses. As stated previously in the document, the original analysis of the 1974 through 1976 data excluded the jargon and crisis center data when calculating the numerator of the abuse rate in order to avoid some of the previous criticisms of the DAWN data. It excluded data from the DAWN crisis centers because of the invalidity of crisis center contacts, the influence of variable case-finding operations, and double counts. It also excluded from the first analysis data reported to DAWN in jargon terminology because the reliability of the identification was more uncertain than when the report was made in standard medical terminology. In addition, FDA used the DAWN consistently reporting panel of emergency rooms and medical examiners to eliminate much of the instability of the DAWN system. These panels are composed of the facilities which have reported consistently during the time period studied.

To respond to some of the criticisms of its original analysis, FDA undertook an updated statistical analysis of monthly DAWN mentions and monthly NPA data for the period January 1974 through June 1978 to address several issues raised in these criticisms at the December 2, 1977 public hearing, namely: (1) to determine whether a correlation exists between the monthly DAWN data and the monthly NPA data, (2) to assess the trend over time for both DAWN mentions and NPA data and to fit these data with an appropriate statistical model, (3) to examine the effects of including or excluding jargon groups for amphetamine DAWN mentions alone and amphetamine DAWN mentions with other drugs, and (4) to evaluate the relationship of DAWN mentions for amphetamines versus DAWN mentions for other anorectic drugs and phenmetrazine when adjusted for their relative prescription sales.

FDA's updated statistical analyses generally show a consistent pattern whether data from the jargon group are included or excluded and whether DAWN mentions for amphetamines are used alone or with other drugs. These analyses demonstrate the following:

1. There are observed and predicted downward trends in amphetamine DAWN mentions and amphetamine prescription sales over this period. (See Figures 1 and 2.)

2. There is a significant positive correlation between reported monthly DAWN mentions and the monthly NPA data. As an example of the pattern of this observed correlation, Figure 3 displays a scatter diagram for DAWN mentions for amphetamines alone (jargon excluded) on which the estimated sample correlation is 0.63 ($P<0.01$).

3. Despite observed and predicted downward trends in both monthly DAWN mentions and NPA prescription sales for the period January 1974 through June 1978, the amphetamines have consistently demonstrated over all months statistically significant increases in DAWN mentions compared with other anorectic drugs above what would be expected when these DAWN mentions are adjusted for their relative prescription sales. The procedures for adjusting DAWN mentions by their prescription sales are reasonable because of the existing significant correlations between these two data sets. Figures 4(a) through 4(d) display these relative increases in DAWN mentions associated with amphetamines for four data sets: (a) amphetamines DAWN mentions alone, jargon group excluded, (b) amphetamines DAWN mentions alone, jargon group included, (c) amphetamines DAWN mentions with other drugs, jargon group excluded, and (d) amphetamines DAWN mentions with other drugs, jargon group included.

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Figure 1

The observed and the predicted number of DAWN Mentions from consistently reporting Emergency Rooms and Medical Examiners (Amphetamine alone, without jargon) January 1974 through June 1978 Monthly

Δ = observed DAWN Mentions
x = predicted DAWN Mentions

Fitted Model

$$\hat{y}_{t+4} = 0.22\hat{y}_t + 0.17\hat{y}_{t+1} + 0.33\hat{y}_{t+2} + 0.24\hat{y}_{t+3}$$

(R^2=37.6%, p<0.01)

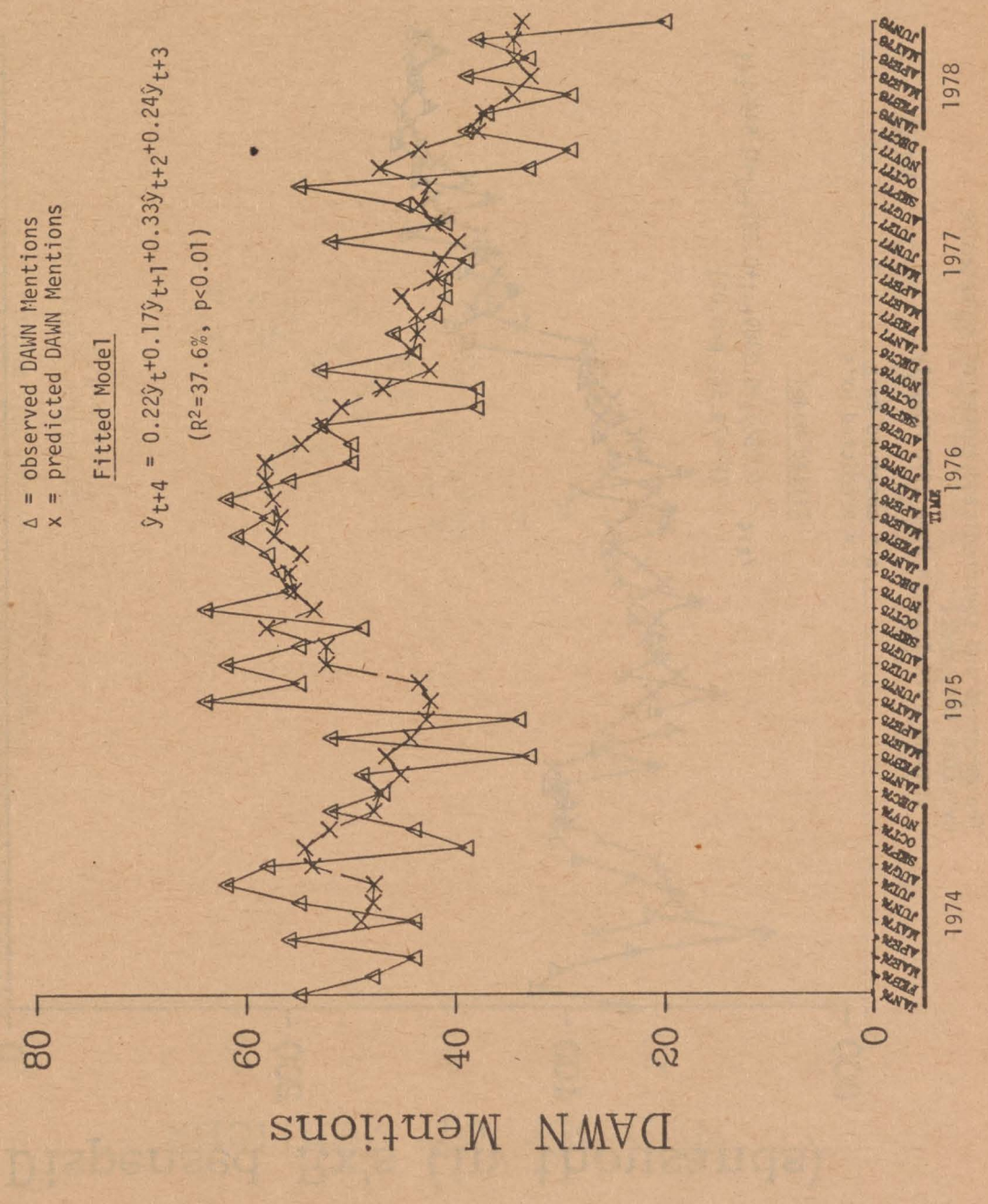


Figure 2

The observed and the predicted number of Amphetamine Rx's (in thousands)
January 1974 through June 1978 Monthly

Δ = observed Rx's
x = predicted Rx's

Fitted Model

$$\hat{y}_{t+4} = 0.086\hat{y}_t + 0.038\hat{y}_{t+1} + 0.32\hat{y}_{t+2} + 0.544\hat{y}_{t+3}$$
$$(R^2 = 74.5\%,\ p < 0.01)$$

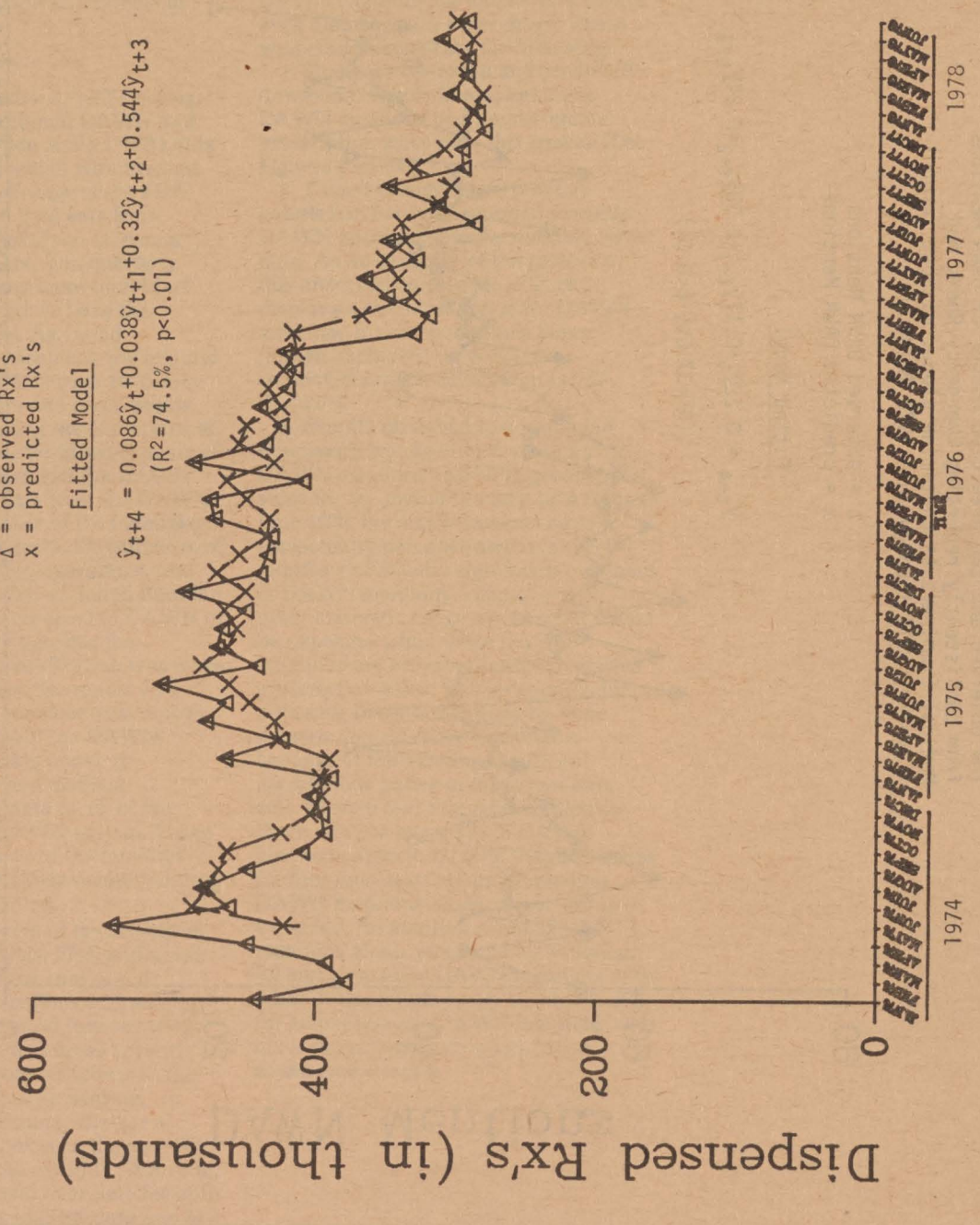


Figure 3

Scatter diagram at time lag 0 (same month) between Amphetamine Rx's (in thousands) and consistently reporting Emergency Rooms and Medical Examiners DAWN Mentions (Amphetamine mentions alone, Jargon excluded)
January 1974 through June 1978 Monthly

Correlation coefficient (r)
= 0.63, p<0.01

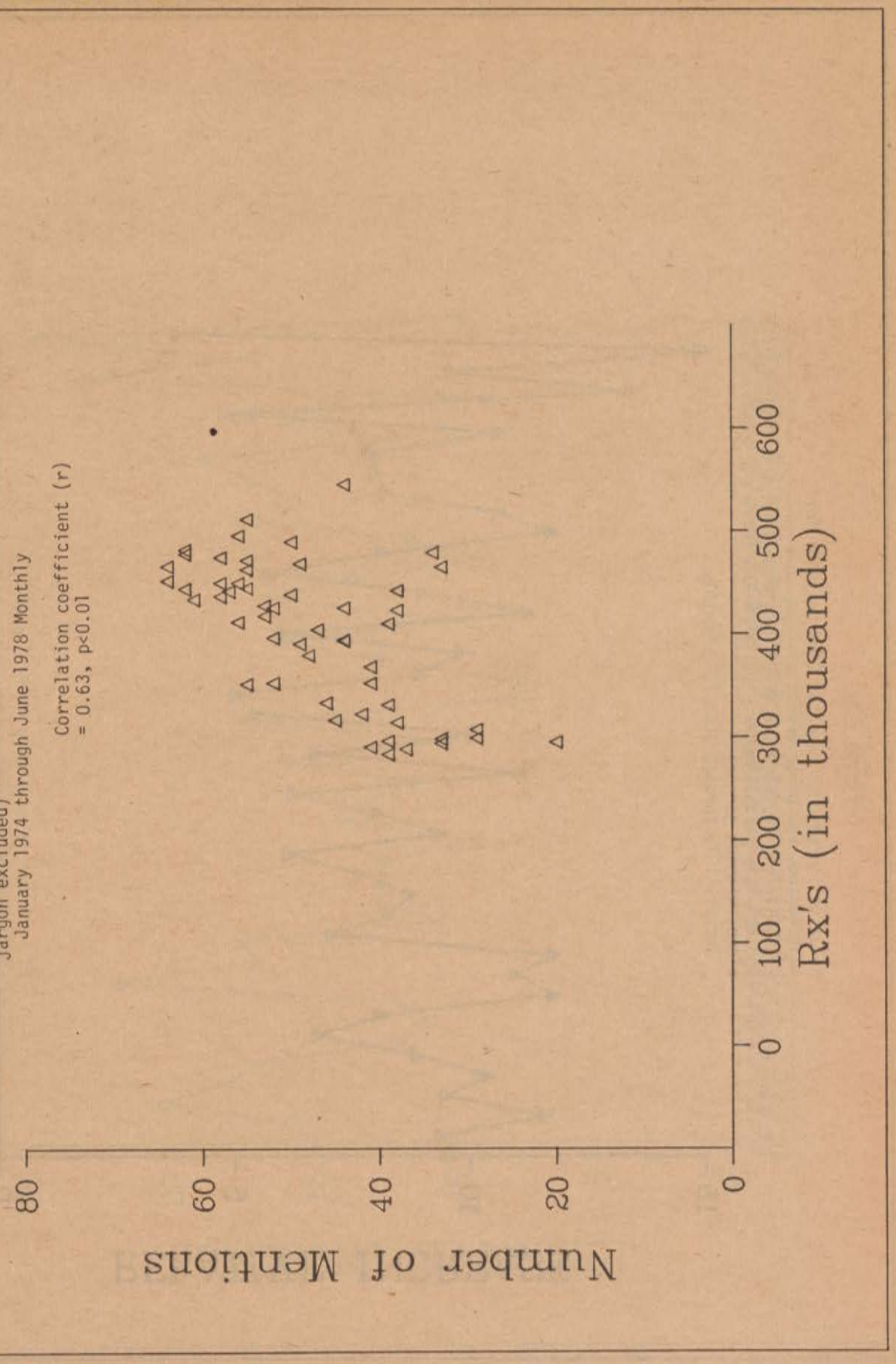


Figure 4(a)

Relative increase of reported DAWN Mentions for Amphetamines vs. other anorectic drugs and phenmetrazine adjusted for relative share of prescription sales (Amphetamines DAWN Mentions alone, without jargon)
January 1975 through June 1978 Monthly

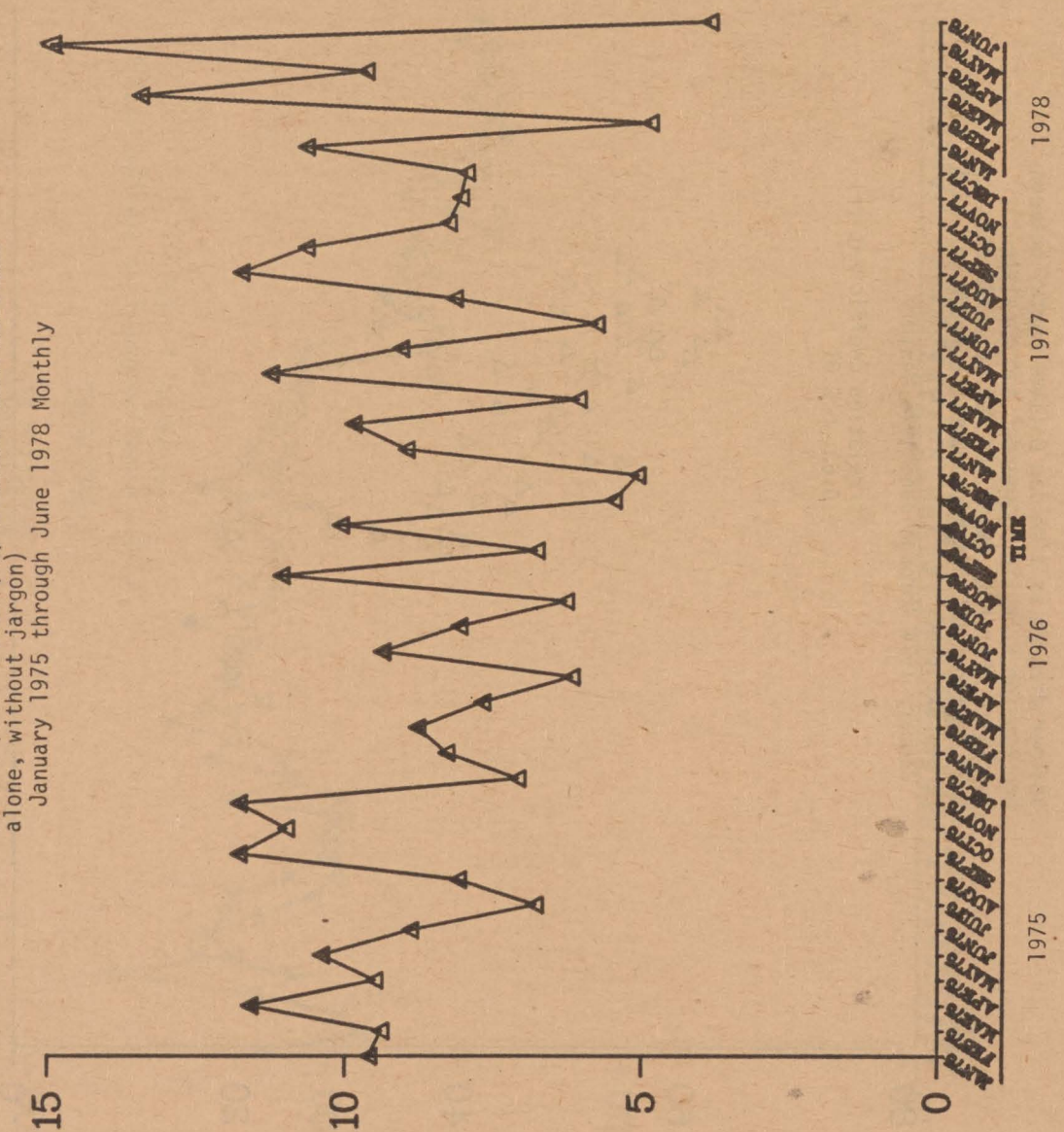


Figure 4(b)

Relative increase of reported DAWN Mentions for Amphetamines vs. other anorectic drugs and phenmetrazine adjusted for relative share of prescription sales (Amphetamines DAWN Mentions alone, with jargon)
January 1975 through June 1978 Monthly

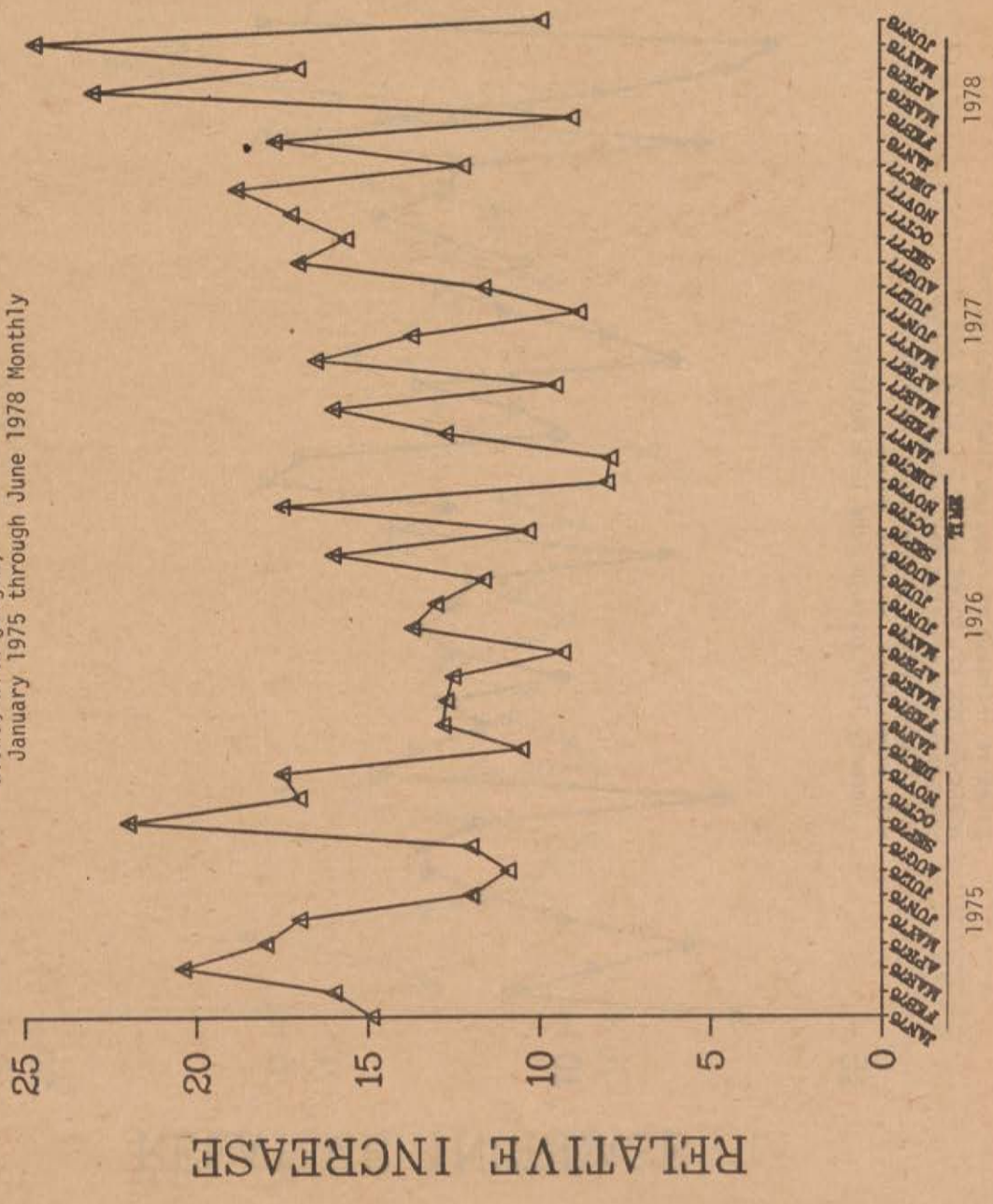


Figure 4(c)

Relative increase of reported DAWN Mentions for Amphetamines vs. other anorectic drugs and phenmetrazine adjusted for relative share of prescription sales (Amphetamines DAWN Mentions with other drugs, without jargon)
January 1975 through June 1978 Monthly

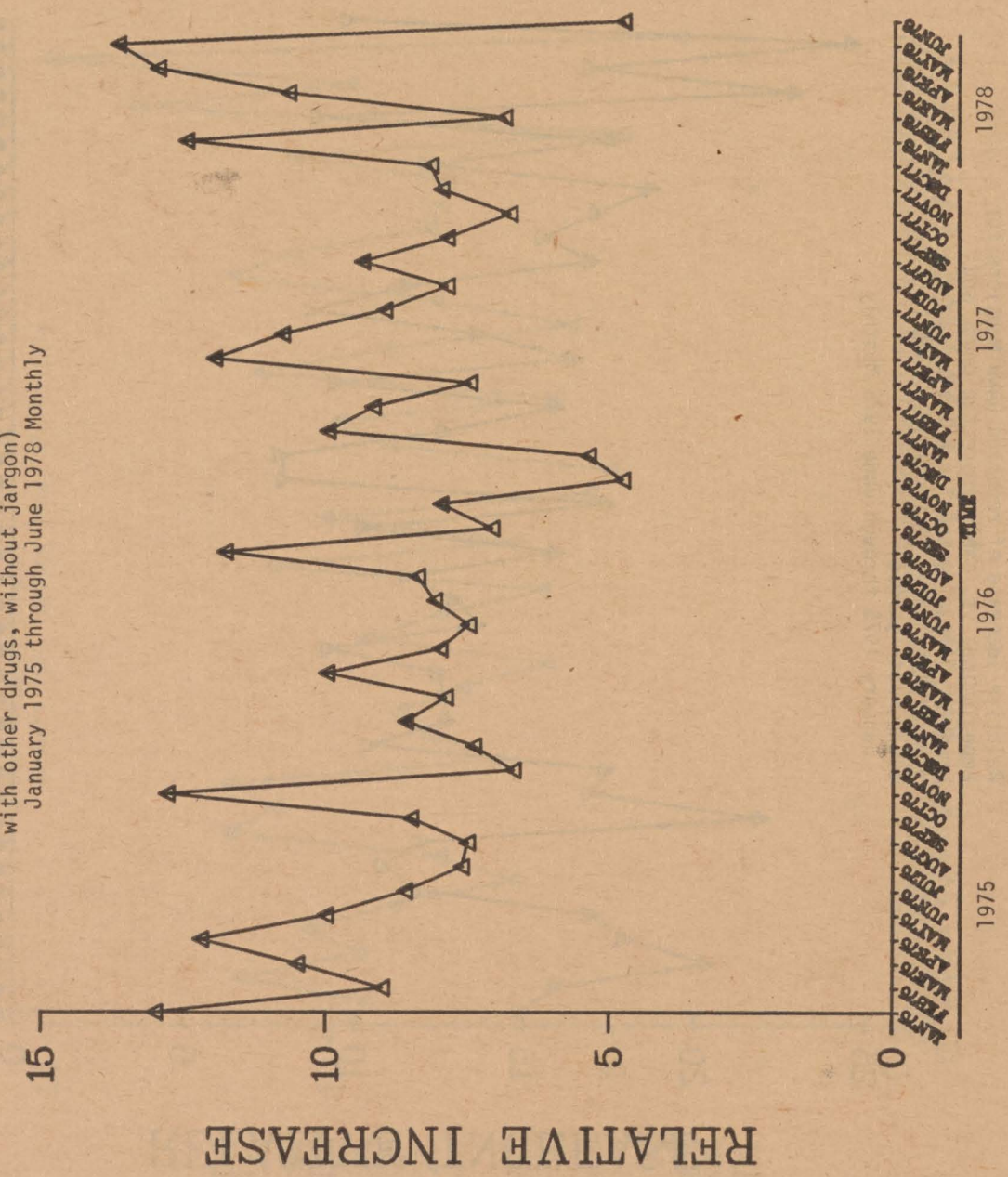
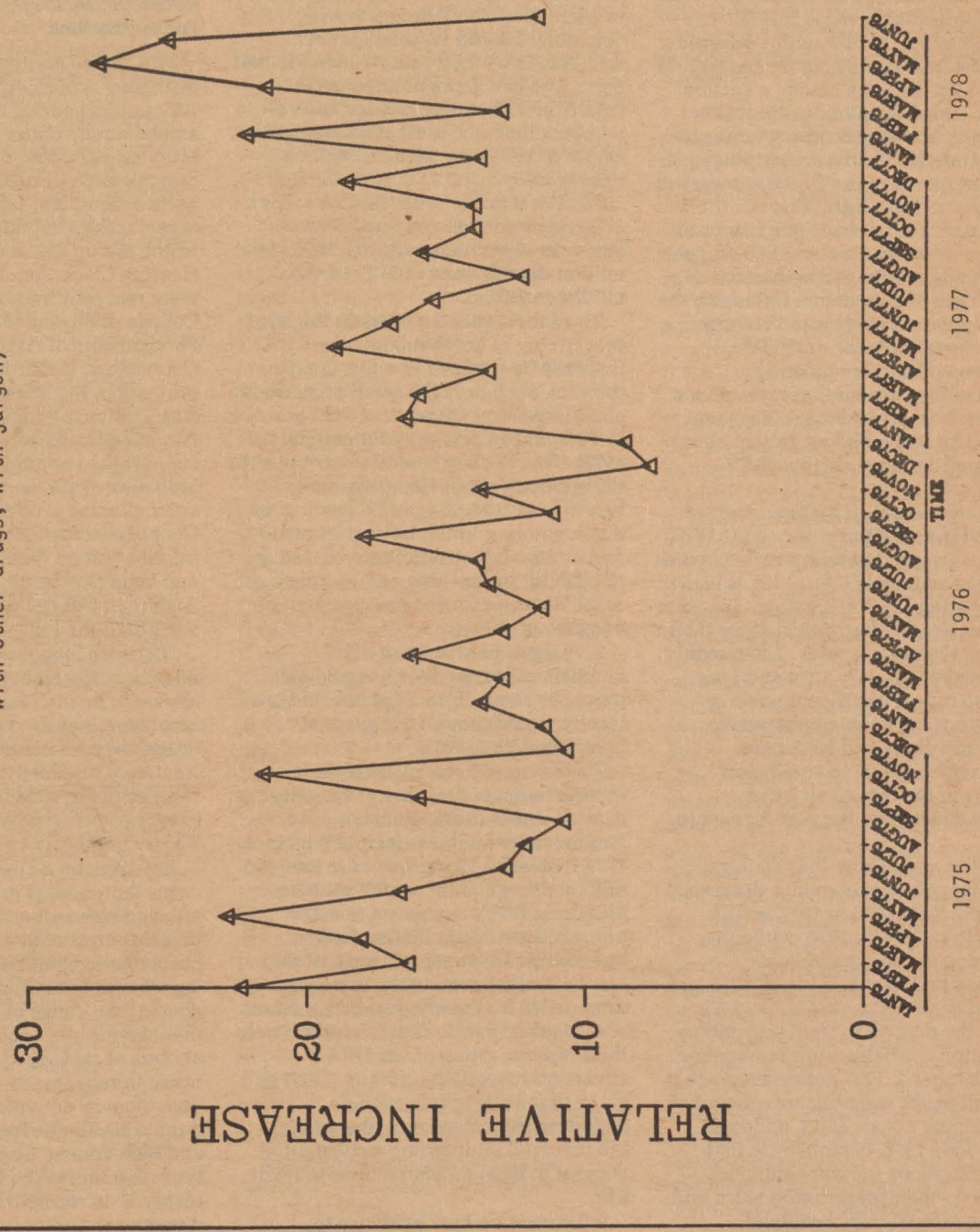


Figure 4(d)

Relative increase of reported DAWN Mentions for Amphetamines vs. other anorectic drugs and phenmetrazine adjusted for relative share of prescription sales (Amphetamines DAWN Mentions with other drugs, with jargon)



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In addition to reanalyzing the DAWN data, FDA has also reviewed information made available since the publication of the October 14, 1977 notice. This information from DEA, NIDA, and the National Clearinghouse for Poison Control Centers demonstrates that there still remains a substantial degree of amphetamine abuse. This recent information is described below as it relates to the conclusions and data described in the October 14, 1977 notice.

1. Among prescription drugs, the anorectic agents are commonly used for non medical purposes (p. 55375).

The October 14, 1977 notice referred to a household survey conducted in 1975 and 1976 on drug use among a sample population in communities throughout the United States. According to recent update from NIDA, the prescription stimulant category is still the category of prescription drugs most abused. The update also shows that there has been an increase in the number of 18–25 year olds who have engaged in the non medical use of stimulants. Data from the rural population study and veterans were not available for an update.

2. Among the anorectic drugs, amphetamines account for more abuse episodes than other drugs in the class and also have the highest rate of abuse of all drugs in the class (pp. 55375–55378).

As stated above, from January 1975 through June 1978 the reported DAWN mentions associated with amphetamines were approximately 8 to 14 times higher than reported DAWN mentions for other anorectic drugs when adjusted for their relative prescription sales. The monthly data between January 1974 and June 1978 also reveal significant positive correlations between amphetamine DAWN mentions and NPA data.

3. There has been no significant decrease in the rate of abuse of amphetamines over the past 3 years (p. 55379).

The NPA data show that the legal prescribing of amphetamines decreased 26 percent from 1976 to 1977 and 14 percent from 1977 to 1978, while the prescribing of other anorectics decreased only 9 percent from 1976 and 1977 and 8 percent from 1977 to 1978. Despite the decline in legal prescribing, information available after publication of the October 4, 1977 notice shows that there still exists a significant amount of amphetamine abuse. Data, updated through June 1978, demonstrate that DAWN mentions for amphetamines correlate to their prescription sales and still have consistently remained proportionately higher than mentions for other anorectics relative to their proportional volume of prescription sales. The conclusion that no significant reduction in the relative occurrence of amphetamine abuse has occurred since January 1974 also continues to be supported by recent data from the National Clearinghouse for Poison Control Centers. These data record the collective experience of the 580 poison centers throughout the United States. For 1977 the data still indicate that Schedule II drug products containing amphetamine continue to be reported more often each year as causing injury to users than do all anorectics in Schedules III and IV combined. In addition, DEA theft reports indicate that there was a 10 percent increase in legally manufactured dosage units of amphetamine and methamphetamine stolen in 1977 over 1976 (5.5 million dosage units in 1977 vs. 5.0 million in 1976). For other anorectics, there was a 27-percent decrease in dosage units stolen in 1977 compared with 1976 (4.0 million dosage units in 1977 vs. 5.5 million in 1976).

The substantial decrease in the legal prescribing of amphetamines as reported by the NPA is much greater than the decline in the retail prescription sales in general (26 percent vs. 3 percent in 1977 and 14 percent vs. 1 percent in 1978). This decline could be attributed to the publicity about Congressional hearings in 1976, the public hearing on amphetamines in the latter part of 1977, and actions by certain States to reduce or prohibit prescribing and dispensing amphetamines for the management of exogenous obesity.

4. A significant amount of amphetamines used for nonmedical purposes comes from supplies that are legally manufactured, shipped, or prescribed (p. 55383).

As previously stated, DEA theft reports indicate that thefts of legally manufactured dosage units of amphetamine and methamphetamine in 1977 increased 10 percent over 1976 (5.5 million dosage units in 1977 vs. 5.0 million in 1976), compared to a 27-percent decrease in thefts of other anorectics. These reports suggest that amphetamines remain the anorectic drugs most frequently desired by those who steal anorectic drugs. In addition to theft reports, reports from DEA's Diversion Investigation Units (DIU) still show that health professionals, including physicians and pharmacists, are involved in diverting a substantial amount of legal amphetamines to illicit use.

5. There is no new evidence to challenge the previous FDA conclusion that amphetamines do not have any advantage over the nonamphetamine anorectic drugs as an adjunct in the treatment of obesity (p. 55384).

No new evidence to refute this conclusion was submitted orally or as comments to the December 2, 1977 public hearing. There is a greater degree of abuse evident for amphetamines than the other anorectics. This is undoubtedly an advantage for the use of nonamphetamine anorectics rather than amphetamines as adjuncts in the treatment of obesity.

Recent Actions by State Organizations and Authorities

This notice earlier described testimony presented at the December 2, 1977 public hearing on the control of amphetamine abuse in the States of Maryland and Wisconsin by the promulgation of regulations. Besides State authorities, several health organizations submitted comments which are on file in the office of the Hearing Clerk. Among them, comments were received from the American College of Physicians, American Pharmaceutical Association, Connecticut Department of Consumer Protection, the Mississippi Medical Association, and the Wisconsin Nurses Association. All of these organizations support the removal of the anorectic indication from the labeling of amphetamine products. The Duval County Medical Society submitted information on their amphetamine abuse and control program, while the American College of Physicians submitted the following statement:

"Because long-term treatment of obesity with amphetamines has been shown to be ineffective and because amphetamines are potentially dangerous drugs, they should not be used in the treatment of obesity. The American College of Physicians supports revocation of approval of amphetamines for use in obesity control."

The Director of the Bureau of Drugs notes that there is an increasing trend among State authorities and organizations of health professionals to promulgate regulations, adopt legislation, or institute programs to combat the abuse of legally manufactured amphetamines. These actions as described below have been taken in response to several types of diversionary activities including burglaries, thefts, forged prescriptions, and high volume dispensers. Often, the type of action taken by the State is in response to recognizing a particular diversionary activity, such as high volume prescribers and dispensers.

With this continuing level of abuse of legally manufactured amphetamines at the State level, these recent actions reflect a grave concern not only of public officials, but also of health professionals including nurses, physicians, and pharmacists. This concern is directly related to the harmful effects of amphetamines upon the individual and society. The Director therefore finds that these actions on the State level demonstrate a long-term, wide spread and growing concern about the abuse of legally manufactured amphetamine products. These actions are described below in chronological order by the date of implementation, including those which were the subject of testimony or comments.

1. The Board of Trustees of the Utah State Medical Association was one of the first organizations of health professionals to take action to combat the abuse of amphetamines. On December 9, 1970, the Board adopted the following resolution:

SINCE, the Utah Society of Internal Medicine has rendered a valuable professional and public service in announcing to the public, by formal resolution, that its member physicians will not prescribe amphetamines or similar drugs in the treatment of obesity because use of such drugs provides no lasting benefit in the treatment of that condition but, instead, frequently results in excessive and harmful use of drugs, and

SINCE, the Utah Society of Internal Medicine has advanced the cause of law enforcement and provided assistance in combating the drug-abuse problem by said resolution in which all pharmacies and law enforcement officials were informed that prescriptions bearing the names of Society members for such drugs should henceforth be considered forgeries, and

SINCE, the Utah State Medical Association concurs with the findings of the Utah Society of Internal Medicine and other medical authorities that the use of amphetamines or similar drugs by drug abusers appears to be related to heroin addiction and to contribute to the drug-connected crime epidemic, and

SINCE, the Utah State Medical Association has the responsibility to encourage its member physicians to forego prescriptions of drugs which have not been demonstrated as beneficial in patient treatment and which are likely to lead to drug abuse and potential addiction, now, therefore, be it

RESOLVED by the Board of Trustees of the Utah State Medical Association that it approves the principle pronounced by the Utah Society of Internal Medicine, and be it further

RESOLVED that Utah State Medical Association physicians be asked to refrain from prescribing amphetamines or similar drugs in the treatment of obesity, and be it further

RESOLVED that the Association send to each of its member physicians a copy of this resolution in such form that any physician may, if he desires, indicate his approval and support of the resolution by affixing his signature thereto and returning the approved resolution to the offices of the Association.

2. Maryland was the first State that acted through legislative action to control the use of amphetamines for the treatment of obesity. In July 1972 the State passed legislation and in August 1973 the State's Board of Medical Examiners promulgated regulations that essentially restricted the use of amphetamines to the treatment of narcolepsy and hyperkinesis. In rare or exceptional cases (i.e. intractable obesity), amphetamines may be used for other purposes. In all such cases, however, the prescribing physician must submit a written justification to the Board. In addition to these restrictions, all prescriptions of amphetamines must contain no more than a 34-day supply.

3. In 1974 the Arizona Board of Medical Examiners enacted a rule which states that the Board found that amphetamines and sympathomimetic drugs have a high potential for abuse. The rule allows the use of amphetamines and sympathomimetic drugs to treat obesity only after all other alternatives have been exhausted, and then for no more than 30 days. It states that any violation of this rule constitutes a danger to the public health and safety, and is considered unprofessional conduct.

4. In late 1976, the Northern Kentucky Pharmacists Association and the Boone County and Campbell-Denton Medical Societies adopted a program to reduce the abuse of legally manufactured amphetamines. Under this voluntary amphetamine control program, physicians agreed to prescribe amphetamines only for narcolepsy, hyperkinesis in children, or neurotic fatigue, and to write the diagnosis or "Phone me if necessary" on the prescription. Only original container amounts are to be specified, and patients are advised to allow the pharmacist 2 to 3 days to order the drug. The program was adopted because people were obtaining amphetamines with prescriptions, either legal or counterfeit, and selling them. Also, there was a large number of burglaries to obtain the drugs.

5. The following resolution was ratified by the Rhode Island Medical Society House of Delegates in May 1977:

WHEREAS amphetamines play no significant therapeutic role in the treatment of intractable obesity, and

WHEREAS amphetamines have a high potential for abuse, and

WHEREAS the drug abuse committee of the Rhode Island Medical Society and the Food and Drug Administration are concerned about the hazards involved in the treatment of intractable obesity by amphetamines, and

WHEREAS the Rhode Island Section of the American College of Obstetrics and Gynecology, and the Rhode Island Chapter of the American Academy of Pedistricians, and the Rhode Island Society of Internal Medicine have taken similar positions

. . . . Therefore be it resolved that the Rhode Island Medical Society be opposed to the use of amphetamines in the treatment of intractable obesity and that this use be limited to specific well recognized medical indications such as narcolepsy, minimal brain dysfunction in children (hyperkinetic behavior disorders) and certain seizure disorders.

6. On July 15, 1977, legislation was passed in New Hampshire on the dispensing of controlled substances. In essence, although a physician may *administer* controlled substances, he or she cannot *dispense* them unless there is a medical emergency. Furthermore, in such an emergency, a Schedule II drug may be dispensed only in 7-day supplies. Although the law is not specifically aimed at amphetamines, the State's experience with high-volume dispensers was an important factor in instituting this law.

7. In response to the December 2, 1977 public hearing, the Duval County Medical Society of Jacksonville, Florida, submitted information on their amphetamine abuse and control program. As described in their submission, physicians and pharmacists in Jacksonville in 1977 instituted a voluntary plan to limit the use of amphetamine, methamphetamine, phenmetrazine, and methaqualone. These substances were removed from pharmacy shelves to eliminate thefts. A 48-hour delay in filling prescriptions allows the pharmacist to verify the prescription and to order from a wholesaler. Prescription sizes are standardized prepackaged amounts so that there are no "leftovers". And finally, the local medical association formally stated to its members that stimulants should not be prescribed for obesity. The immediate result of this effort was an 81-percent reduction in the amount of amphetamines prescribed. The Florida State medical and pharmaceutical associations have endorsed this program and have asked its initiators to expand it State-wide.

8. In May 1977 the Mississippi State Medical Association adopted the following policy on prescribing amphetamines: "Prescribing of amphetamines and other stimulant drugs should be limited to specific, well-

recognized indications. The use of these drugs has no rational basis in the treatment of obesity."

9. The South Carolina Commission on Alcohol and Drug Abuse has convened a task force to investigate the problem of drug abuse in women. Through this task force, which has representatives of the State medical and pharmaceutical associations, the problem of amphetamine abuse was identified. In 1978 the South Carolina Medical Association endorsed the following resolution; it was subsequently endorsed by the South Carolina Pharmaceutical Association:

WHEREAS, the prescribing of amphetamines for weight control has resulted in its abuse in some communities in South Carolina; and

WHEREAS, extended use of this drug in weight control has resulted in what appears to be a medically-sanctioned tolerance and dependency by some patients and has resulted in the added abuse of amphetamines as a street drug; and

WHEREAS, the insomnia and psychomotor agitation resulting from overuse of this drug can lead to the abuse of other drugs, such as sedative-hypnotics, and at times results in acute psychotic episodes: NOW THEREFORE

BE IT RESOLVED that the South Carolina Medical Association go on reocrd as opposing the use of amphetamines for weight control, and, therefore,

BE IT FURTHER RESOLVED, that the South Carolina Medical Association stipulate that prescribing or dispensing these drugs for this purpose is considered unethical and poor medical practice . . . .

A bill based on the Michigan statute regulating amphetamine prescriptions is currently pending before the South Carolina legislature. Although the bill would permit the use of amphetamines to treat obesity, a thorough physical examination and a complete history of the patient would have to be taken, the therapy would be limited to 15 milligrams a day, the maximum prescription size would be 30 days, the maximum duration of therapy would be 90 days, and a diet for weight loss would have to be prescribed along with the amphetamines. In addition, the proposed bill would impose diagnostic conditions that would have to be met prior to prescribing amphetamines for the treatment of hyperactivity and narcolepsy.

10. On August 23, 1978, the Pennsylvania Medical Society adopted a position statement which encourages its members to discontinue the use of amphetamines as an anorexiant because of its deleterious effects. Part of the statement is quoted below which refers to the harm that can be caused by amphetamines even when used on a short-term basis for weight reduction.

Conditions mindful of amphetamines potential for harm assert that in weight reduction the exposure is limited to a relatively short period. Although this may be the intention, it often does not turn out that way. People who have problems controlling their need for constant gratification as indicated by compulsive eating find it hard to put aside a medication that makes them feel good. Many patients consider their attempt to lose weight doomed to failure once they lose this magic potion that protects them from themselves. When the drug is discontinued, a psychologic vacuum is created that must be filled with food. Some patients gain back even more weight then they have lost. So although short-term use of the drug causes a short-term weight loss, it also helps the patient avoid the issue of changing his eating habits. For these reasons we doubt the wisdom of using amphetamines for weight reduction under any circumstances.

11. As described in Dr. Rupel's testimony at the public hearing, the Wisconsin Board of Medical Examiners promulgated final rules on June 1, 1978, that prohibit dispensing and prescribing Schedule II drugs for the treatment of obesity. Amphetamines are permitted only for the treatment of narcolepsy, hyperkinesis, epilepsy, and drug-induced brain dysfunction.

12. The Medical Practice Board of Michigan approved a rule in 1978 which restricted the prescribing of amphetamines. Although amphetamines may still be used to treat obesity, the Michigan rule limits the therapy to a maximum of 15 milligrams a day, a maximum prescription size of 30 days, and a maximum duration of therapy of 90 days. According to the Board, a major factor in adopting the administrative rule was the prescribing of amphetamines for nonmedical purposes, generally occuring under the guise of the treatment of obesity.

13. On January 26, 1979, the Washington State Medical Disciplinary Board adopted rules prohibiting the dispensing or prescribing of any Schedule II stimulant drug for the treatment or control of exogenous obesity. The Board had "recognized that indiscriminate or non-therapeutic prescribing of these drugs was a drug abuse problem in Washington." This action was followed by the enactment of State legislation on May 2, 1979 which made the prescribing of Schedule II stimulant drugs for weight control an illegal act. Violation of this law is a crime punishable by up to two years imprisonment, and fine of up to two thousand dollars. Schedule II stimulants are allowed to be prescribed for the treatment of hyperkinesis, drug-induced brain dysfunction, and certain other indications.

14. On February 14, 1979, the New Jersey State Board of Medical Examiners in the Division of Consumer Affairs of the Department of Law and Public Safety adopted regulations concerning the prescribing, administering, and dispensing of amphetamines and sympathomimetic amines. The rules prohibit the prescribing, ordering, dispensing, administering, selling, or transferring of any amphetamines or sympathomimetic amine drug or compound designated as a Schedule II Controlled Dangerous Substance under New Jersey law, for use in weight management, dieting, or any anorectic purpose, or for the treatment of fatigue. Amphetamines and sympathomimetic amine drugs are permitted for the treatment of narcolepsy, hyperkinesis, and drug-induced brain dysfunction.

Besides the above actions, many states have adopted policies which do not permit reimbursement for prescriptions containing amphetamines for weight loss. A major reason for these policies is the reluctance of the states to use public funds to reimburse prescriptions for a drug whose limited effectiveness in the treatment of obesity is substantially outweighed by its high potential for abuse. Although many states do not allow the drug's reimbursement when prescribed for weight loss, there appears to be no restrictions when amphetamines are used in the treatment of hyperkinesis and narcolepsy.

Benefit Risk Ratio

As Dr. John D. Griffith of NIDA testified at the public hearing, there is a risk associated with the use of amphetamines, directly related to their action as a central nervous system stimulant that can produce toxic reactions, dependency, and social dysfunction. Morever, there is no new evidence that amphetamines have any offsetting advantage over the nonamphetamine anorectic drugs as an adjunct in the treatment of obesity. The anorectic review initiated by FDA in 1972 led to the conclusion that there are no significant differences among the anorectic drugs in their effectiveness in enhancing weight loss over the short term as adjunctive treatment to diet in the management of obesity. Since that time no evidence has been presented to the agency to show that this conclusion was in error. Specifically, no adequate and well-controlled trials are known to the Bureau of Drugs which demonstrate that amphetamines carry an relative

advantage over other anorectic drugs in the management of obesity.

Besides the availability of other anorectic drugs with less risk and equivalent efficacy, the efficacy of amphetamines is limited to a very short period, usually 3 to 4 weeks. Moreover, this exposure often is not limited to 4 weeks according to Dr. Lester Grinspoon of the Harvard Medical School. He testified at the public hearing that "people who have problems controlling there need for constant gratification, as indicated by compulsive eating, find it hard to put aside a medication that makes them feel good [euphoria is a side effect of amphetamines]. What is more, many patients consider their attempts to lose weight doomed to failure once they have lost this magic potion which protects them from themselves. When the drug is discontinued, a psychological vacuum is created which has to be filled with food. On occasion patients have gained back even more weight than they lost, a condition commonly known as rebound phenomenon. So, although short-term use of the drug causes a short-term weight loss, it also helps the patient to avoid the issue of changing his eating habits." In addition, Dr. Grinspoon testified that after the 4-week period amphetamines are no longer effective as anorectics unless the user increases the dose, thus creating a real potential for psychologic dependency and abuse.

From the testimony presented at the public hearing, together with information from the DEA and the NIDA, the Director of the Bureau of Drugs finds that amphetamines are being prescribed and dispensed by certain physicians for weight loss beyond the 4-week period (the physician labeling states a few weeks). Moreover, patients are not only using amphetamines for an extended time for weight loss, but they frequently increase the dosage in an attempt to deal with the diminishing anorexic effect of the drug. The Director therefore finds that the use of amphetamines in the treatment of obesity beyond the conditions of use specified in the physician labeling is exposing patients to the risk of harmful effects through the chronic use of amphetamines. In addition to patients who become involved in a pattern of amphetamine abuse through medical use for the treatment of obesity, other people abuse amphetamines solely for the euphoric and energizing effect.

Besides the damage to society in the form of neglect of family and work, financial irresponsibility, crime, and other antisocial behavior, the Director finds that chronic abuse of amphetamines also produces harmful effects on the health of the user. These harmful effects fall into three major categories: (1) central nervous system effects; (2) habituation, dependence, and addiction; and (3) amphetamine psychosis.

1. *Central Nervous System Effects.* With the development of tolerance to the peripheral adrenergic effects (such as blood pressure response), central nervous system toxic reactions have been reported. These reactions usually involve loss of hypothalmic temperature regulation, with hyperthermia, leading to cardiovascular collapse, convulsions, and death. Convulsions are most often associated with hyperthermia but can also be a complication of high-dose amphetamine use. Status epilepticus, the characteristic seizure pattern, presents a particularly serious threat to the individual. Permanent severe brain damage can result from status epilepticus. Often multiple drug ingestion will potentiate the epileptogenic effect of stimulants, for example, with phencyclidine and lysergic acid. Cerebral vascular complications can be life-threatening and include secondary intracranial hypertension leading to subarachnoid hemorrhage. Stimulant abusers with a history of congenital cerebral aneurysm and arteriovenous malformation are at an added risk of intracerebral hemorrhage. A necrotizing angiitis has been reported in amphetamine abusers. This vascular inflammatory response is especially severe in the cerebral and renal arteries.

2. *Habituation, Dependence, and Addiction.* Scientific literature has shown various degrees of dependence on amphetamines, ranging from mild habituation to strong compulsion and to using the drugs chronically. The more severe cases of dependence show all the characteristics of true addiction. According to Dr. Orina Kalant in "The Amphetamines: Toxicity and Addiction," (Ref. 24) persons who are unable to terminate the continous use of amphetamines have certain features in common. "All of them suffered periodic or chronic states of intoxication, with the usual signs of central nervous system overstimulation and sometimes sympathetic overactivity. Many had anorexia, insomnia, irritability, and erratic behavior. Abuse of other drugs was common, especially barbiturates which were taken to counteract the insomnia. Development of toleance was common, and often marked, and the problems of obtaining the large doses required led in many cases to financial hardship, neglect of family, and antisocial behaviour such as theft and forgery of prescriptions. In addition, physical dependence has been indicated recently by the discovery of certain abnormal electroencephalographic and electro-oculographic patterns during amphetamine withdrawal, which are abolished immediately by restoring the drug" (p. 120). Dr. Lester Grinspoon in "The Speed Culture" states that "the essential 'normality' and general reliability of the initial euphoric effect of amphetamine is what makes the drug so likely to produce dependence" (Ref. 25, p. 173).

3. *Amphetamine Psychosis.* Acute "amphetamine psychosis" is one of the most widely recognized phenomena of psychiatric change associated with amphetamine use. Most often the psychosis is a result of chronic abuse, but even single large doses can produce a toxic hallucinatory paranoid panic state. The amphetamine psychosis was at one time thought to be seen only in "latent" schizophrenics, but this view has been refuted by evidence from many scientific publications. A schizophrenia-like state can be induced in laboratory animals by administration of amphetamine. The most common clinical symptoms of amphetamine psychosis are paranoid delusions and vivid hallucinations of all senses. Occasionally the patient is confused and violently excited. Treatment consists essentially of drug withdrawal, though many patients have received neddless shock and other therapy because of mistaken diagnosis. Unless treatment is directed to the drug abuse rather than to the psychosis, the relapse rate is high.

In most cases of amphetamine psychosis, 1 to 5 years of chronic drug abuse preceded the onset of the psychosis. There is no characteristic mental or emotional picture by which a high risk patient can be identified in advance.

After sub chronic and chronic use and during amphetamine withdrawal, symptoms of depression can be profound. Prolonged sleep and lethargy can lead to severe depression and suicide in some amphetamine users. The psychiatric manifestations of amphetamine abuse are an important cause for hospitalization among adolescents and young adults.

While the hazards from amphetamine abuse are many, little evidence is available to conclude that these risks occur in patients under treatment for narcolepsy or hyperkinesis. Children receiving daily amphetamine for learning disabilities have not shown either growth retardation or a later

tendency to drug abuse. Narcoleptics have been followed for periods of 20 to 30 years on stable daily amphetamine dose schedules. The efficacy of amphetamines in those patients has been supported by well-controlled clinical studies.

References

The following items, as well as statistical analyses of the DAWN data, are on file and available for inspection in the office of the Hearing Clerk, at the address specified at the beginning of this notice.

1. Director, National Institute on Drug Abuse, memorandum to Director, Bureau of Drugs, Food and Drug Administration, March 24, 1977, and attached reports: "Anorectics," 11 pp., and tabulation "Drug Use Among High School Seniors in 1975 and 1976," 2 pp.

2. National Institute on Drug Abuse, "An Investigation of Selected Rural Drug Abuse Programs," DHEW Publication No. (ADM) 77-451, U.S. Government Printing Office, Washington, 1977, 20 pp.

3. Robins, L., "The Relationship of Amphetamine Use to Current Adjustment," unpublished paper, 1977, 13 pp.

4. "National Prescription Audit, Therapeutic Category Report," IMS America, Ambler, PA.

5. Drug Enforcement Administration, U.S. Department of Justice, "Study of Prescription and Drug Abuse Trends of CSA II, III, and IV Amphetamine and Other Anorectic Drugs, January 1, 1974-December 30, 1976," IMS America, Ambler, PA, 1977, 83 pp.

6. Food and Drug Administration data from Poison Control Center reports on anorectics for the years 1972, 1973, 1974, 1975, 4 pp.

7. Administrator, Drug Enforcement Administration, letter to Commissioner of Food and Drugs, December 30, 1976, and attached DEA report, "Amphetamine Diversion," 96 pp.

8. Drug Enforcement Administration, U.S. Department of Justice, "DEA Laboratory Analyses: Schedule II, III, and IV Anorectics," March 16, 1976, 36 pp.

9. Hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, United States Senate, 94th Congress, 2d Session, on Present Status of Competition in the Pharmaceutical industry, U.S. Government Printing Office, Washington, 1977, pp. 14433-15357.

10. Minutes of the Sixth Meeting, Neurologic Drugs Advisory Committee, Food and Drug Administration, Bureau of Drugs, February 3-4, 1977, 24 pp.

11. "National Disease and Therapeutic Index—Drug File," IMS America, Ambler, PA.

12. Drug Enforcement Administration Data on NPA drug list and Project DAWN code numbers, 9 pp.

13. Person, P. H., Jr., "The Drug Abuse Warning Network: A Statistical Perspective," Public Health Reports, 91(5):395-402, 1976.

14. Food and Drug Administration, Notice of Public Hearing, October 14, 1977, Federal Register 42(199) 55374-55386.

15. Administrator, Drug Enforcement Administration, letter to Director, Bureau of Drugs, FDA, July 13, 1978, and 37-page attachment, updating information.

16. Acting Director, National Institute on Drug Abuse, memorandum to Director, Bureau of Drugs, FDA, July 18, 1978, and 11-page attachment, "Update on Amphetamine/Stimulant Data."

17. Acting Director, Division of Poison Control, Bureau of Drugs, memorandum to Director, Bureau of Drugs, FDA, July 24, 1978, and 1-page attachment, "Update on Amphetamine Data."

18. Anthony, J. C., "The Effect of Federal Drug Law on the Incidence of Drug Abuse," *Journal of Health, Politics, Policy, and Law*, Spring 1979.

19. "Basic Neurochemistry," 2d Edition, Edited by Siegel, G. J., R. W. Albers, R. Katzman, and B. W. Agranoff, Little, Brown & Co., Boston, 1976, p. 721-722.

20. "The Pharmacological Basis of Therapeutics," 5th Edition, Edited by Goodman, S., and A. Gilman, MacMillan, New York 1975, p. 496-497.

21. Meyler, L. and A. Herxheimer, "Side Effects of Drugs," Williams and Wilkins, Baltimore, 1968, p. 3-7.

22. "Current Concepts on Amphetamine Abuse," Edited by Ellinwood, E. H., and S. Cohen, N. I. M. H. Rockville, MD, 1972, Chapter 17-19.

23. "Clinical Neurology," Edited by Baker, A. B., and L. H. Baker, Harper and Row, New York, 1976, Vol. 2, Chapter 20, p. 25.

24. "The Amphetamines: Toxicity and Addiction," 2d Edition, Kalant, O. J., University of Toronto Press, Toronto, 1973.

25. Grinspoon, L. and P. Hedblom, "The Speed Culture: Amphetamine Use and Abuse in America," Harvard University Press, Cambridge, 1975.

26. Finney, D. J., "Statistical Logic in the Monitoring of Reactions to Therapeutic Drugs," *Methods of Information in Medicine*, Vol. 10, No. 4, p. 237-245, 1971.

Conclusions

The Director of the Bureau of Drugs concludes that the evidence of continuing misuse and abuse of amphetamines, the severe risk of dependence and harmful effects that they present, and the availability of alternative drugs with less risk create an unfavorable benefit-to-risk ratio in the continued marketing of the drugs for use as an anorectic agent when compared to the limited benefit expected. Therefore the Director proposes to remove the indication for the management of exogenous obesity from the labeling of drug products containing an amphetamine. Accordingly, the July 19, 1974 Federal Register notice is amended to read as follows, insofar as it pertains to single-entity drug products containing amphetamine, dextroamphetamine, methamphetamine hydrochloride, or dl-methamphetamine hydrochloride. A mixture of amphetamine and dextroamphetamine is regarded as a single-entity drug for the purposes of this notice.

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 products 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 single-entity drug products containing amphetamine or dextroamphetamine, or a salt thereof, or methamphetamine hydrochloride, or dl-methamphetamine hydrochloride are:

1. Effective for the indications in the labeling conditions below.

2. Effective but lack evidence of safety for use as a short-term adjunct in the management of obesity.

(For purposes of this notice a mixture of amphetamine and dextroamphetamine is regarded as a single-entity drug product):

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under the conditions described herein:

1. *Form of drug.* The drug is in capsule, tablet, or liquid form suitable for oral administration. It may be in controlled-release form.

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:

dl-amphetamine, dextroamphetamine, and methamphetamine are indicated as an integral part of a total treatment program which may include other remedial measures (psychological, educational, social) for a stablizing effect in children with a behavioral syndrome characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity. The diagnosis of the syndrome should not be made with finality when these symptoms are only of comparatively recent origin. Nonlocalizing (soft) neurological signs, learning disability, and abnormal EEG may or may not be present, and a diagnosis of central nervous system dysfunction may or may not be indicated.

dl-Amphetamine and dextroamphetamine are also effective in the treatment of narcolepsy.

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 September 17, 1979 the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. For preparations claiming controlled release, such supplements should contain studies comparing blood levels occurring with the controlled-release form with blood levels occurring with single units of the conventional form given multiple times. For example, when comparing a 30-milligram controlled-release form normally given every 12 hours with a 10-milligram conventional form normally given every 4 hours, the comparison should involve one unit of the controlled-release form given once and one unit of the 10-milligram form given every 4 hours for three doses. Protocols for these studies are required to be submitted under a Notice of Claimed Investigational Exemption for a New Drug (IND). Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

OPPORTUNITY FOR HEARING

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indication as described in this announcement for the management of exogenous obesity, on the ground that new information has shown the drugs to be a risk to the patient, as well as to society, when offered for use for this indication, and that this information, evaluated together with the information available when the applications were approved, shows that such drugs are not shown to be safe for use under the conditions of use on the basis of which the applications were approved. An order withdrawing approval will not issue with respect to any application(s) supplemented in accord with this notice to delete this indication, except for those combination products which are only approved for this indication.

In addition to the specific ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that a product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6) are hereby given an opportunity for a hearing to show why approval of the new drug applications providing for the claim involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to its legal status.

An applicant or any other person subject to this notice who decides to seek a hearing, shall file (1) on or before August 16, 1979, a written notice of appearance and request for hearing, and (2) on or before September 17, 1979, the data, information, and analyses relied upon to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes and election not to make use of the opportunity for a hearing concerning the action proposed with respect to the drug product and a waiver of any contentions concerning the legal status of the drug product. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application, or when the request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing must be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

Federal Food, Drug, and Cosmetic Act sec. 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: July 10, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79-21953 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78P-0314]

Lase-Aim-Inc.; Approval of Variance for Laser Target Designator, Model LA-300

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces that a variance from the performance standard for laser products has been approved for an alignment laser product identified as a Laser Target Designator, Model LA-300, The product is designed to produce a narrow laser light beam that is aligned parallel to a firearm bore and that projects a visible spot of light that serves as a means for improving aiming speed and accuracy. The product is used only for law enforcement and military purposes.

DATES: The variance becomes effective August 16, 1979, and ends August 17, 1984; written objections and supporting data by August 16, 1979.

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

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Lase-Aim-Inc., 2905 Granite Creek Rd., Santa Cruz, CA 95066, submitted an application for a variance from certain provisions of the laser products performance standard (21 CFR 1040.10) for its alignment laser product. The variance is approved under § 1010.4 (21 CFR 1010.4), which authorizes the granting of variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (the act) (42 U.S.C. 263f).

Under the terms of this variance, the Laser Target Designator, Model LA-300, will deviate from the requirements of the standard in that the Class III product will not be provided with the performance features of a remote control connector (§ 1040.10(f)(3)), key control (§ 1040.10(f)(4)), emission indicator (§ 1040.10(f)(5)(ii)), and beam attenuator (§ 1040.10(f)(6)).

Elsewhere in this issue of the **Federal Register**, the Food and Drug Administration (FDA) is issuing a notice of an approved variance, No. 79001, under Docket No. 78P-0078, for a laser-aimed firearm having the same laser product performance features and similar design. The Director of the Bureau of Radiological Health notes that all aspects of the requested variance for the Laser Target Designator, Model LA-300, are identical with those upon which variance No. 79001 was granted. Therefore, the Director has approved the requested variance under the same conditions, as follows:

1. The sales and leasing of the Laser Target Designator by the manufacturer or owner are to be restricted to governmental military and law enforcement agencies. The conditions of restricted sales and leasing are to be fully stated along with the user and purchasing information that is required under 21 CFR 1040.10(h).

2. The laser system incorporated into the Laser Target Designator is to be nonremovable, 21 CFR 1040.10(c)(2).

3. The laser system is to be turned on only by using a normally-off, momentary switch whose actuation is significantly distinct but not necessarily physically separate from the trigger action of the weapon itself to prevent inadvertent firing of the weapon.

In accordance with § 1010.4(d), the applicant is directed to modify the tag, label, or other certification required by § 1010.2 (21 CFR 1010.2), under this variance, to state the following: "This product is in conformity with DHEW performance standards for laser products under 21 CFR Part 1040, except with respect to those characteristics authorized by Variance No. 79003, effective August 16, 1979."

The agency has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment, and that an environmental impact statement is not required. A copy of the environmental impact assessment report is on file in the office of the Hearing Clerk, FDA.

Variance No. 79003 becomes effective August 16, 1979, and ends August 17, 1984, unless written objections and supporting data are filed with the Hearing Clerk (HFA-305) on or before August 16, 1979, requesting that the variance be modified or not granted. If objections and supporting data are submitted, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them under the procedures of § 1010.4(c).

The application for this variance and all related correspondence, including documents displayed under Docket No. 78P-0078 upon which this variance is based, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-21955 Filed 7-16-79 8:45 am]

BILLING CODE 4110-03-M

Office of Education

Community Education Advisory Council; Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Planning Committee of the Coummunity Education Advisory Council. It also describes the functions of the Council from which this Planning Committee is formed. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: August 2 and 3, 1979.

ADDRESS: Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT: Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, 7th and D Streets, S.W., Regional Office Building Three, Room 5622, Washington, D.C. 20202. Telephone: (202) 245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Public Law 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting are open to the public. The meeting will begin each day at 9:00 a.m. and end at 4:30

p.m., and will be held at the Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

A major part of the full Council meeting held in Washington, D.C. on June 7 and 8 was devoted to a discussion of the Council's mission and the formulation of strategies for Council activities. The Council determined that a Planning Committee meeting was necessary, prior to its next full Council meeting, in order to finalize its mission statement and to develop short and long-range strategies for activities. Also, it was determined that the Planning Committee would continue to make plans for the School-Community-Home Initiative/National Forum and finalize arrangements for the full Council meeting tentatively scheduled for August.

The proposed agenda includes: (1) Development of mission/strategies statement;

(2) Development of short and long-range strategies for Council activities;

(3) Discussion of plans for School-Community-Home Initiative/National Forum;

(4) Planning for Council participation in regulations development; and,

(5) Discussion of other administrative matters and related business.

Records shall be kept of all Planning Committee proceedings and shall be available for public inspection in Regional Office Building Three, Room 5622, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C., on July 12, 1979.

Ron Castaldi,

Acting Director, Community Education Program.

[FR Doc. 79-21970 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT DES 79-40]

Colorado; Proposed Superior Oil Company Land Exchange and Oil Shale Resource Development; Availability of Draft Environmental Statement and Public Meeting

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Interior has prepared an environmental statement for the proposed Superior Oil Company Exchange and Oil Shale Resource Development in Rio Blanco County, Colorado.

The proposal involves the exchange of 2,045 acres of public land for 2,572 acres of private land and the development of an underground mine and processing plant near Meeker, Colorado.

The environmental statement analyzes the impacts that would result from approval of the land exchange and development of oil shale resources.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Land Management, Office of Information, Room 5625, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240 (Phone: (202) 343-5717)

Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202 (Phone: (303) 837-4481)

Bureau of Land Management, Craig District Office, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81625 (Phone: (303) 824-3417)

Bureau of Land Management, White River Resource Area Office, P.O. Box 957, Meeker, Colorado 81641 (Phone: (303) 878-5084)

Public Libraries

Public Library of Craig, Craig, Colorado 81625

Conservation Library, Denver Public Library, 1357 Broadway, Denver, Colorado 80206

Glenwood Springs Public Library, 806 Cooper Avenue, Glenwood Springs, Colorado 81601

Mesa County Library, 530 Grand Avenue, Grand Junction, Colorado 81501

Meeker Public Library, 200 Main, Meeker, Colorado 81641

Rangely Public Library, 109 East Main Rangely, Colorado 81648

Rifle Public Library, Rifle, Colorado 81650

County Courthouses

Garfield County, Glenwood Springs, Colorado 81601

Mesa County, Grand Junction, Colorado 81501

Rio Blanco County, Meeker, Colorado 81641

Single copies of the draft statement can be obtained from the State Director, Colorado State Office; the District Manager, Craig District Office; the Area Manager, White River Resource Area Office, at the addresses listed above.

Written comments on the adequacy of the draft environmental statement are requested and should be submitted by August 31, 1979, to the State Director, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Oral and written comments will also be received at a public hearing. The hearing is scheduled for Tuesday, August 7, 1979, at the Meeker Public Library auditorium in Meeker, Colorado. The hearing will convene at 1 p.m. and 7 p.m.

Oral comments will be accepted at the hearing in lieu of or in addition to written comments. Comments will be limited to 10 minutes. This limitation will be strictly enforced. The complete text of prepared speeches may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Speakers will be heard in the order established by the presiding officer. After the last listed commentor has been heard, the presiding officer will consider the request of any other person wishing to speak. Only one speaker will be allowed to represent the viewpoints of a single organization. However, any commentor will be permitted to give germane comments if offered as the views or opinions of a private citizen.

Written requests to comment orally should be received at the Colorado State Office at the above address prior to close of business on August 2, 1979. Requests should identify the organization represented and should be signed by the prospective speaker. The cut-off date is necessary so that a list of commentors can be made available on the day of the public hearing.

Comments on the draft environmental statement, whether written or oral, will receive equal consideration in preparation of a final environmental statement.

Dated: July 12, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-21965 Filed 7-16-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Arizona; Wilderness Initial Inventory, Public Comment Period

The public comment period for the initial wilderness inventory for Arizona has been extended eleven days to provide for additional time for public comment. The original 90-day comment period beginning April 23, 1979 was published April 12, 1979 in the **Federal Register**. With the extension, comments will be accepted through the close of normal working hours on August 3, 1979.

Additional information can be obtained at Bureau of Land Management, 2400 Valley Bank Center,

Phoenix, Arizona 85073. Phone (602) 261–3831.

Robert O. Buffington,

State Director, Arizona.

[FR Doc. 79–21979 Filed 7–16–79; 8:45 am]

BILLING CODE 4310–84–M

[C–0119902B; CO–946 (WT)]

R/W Application For Pipeline

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 186), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way for approximately 2.27 miles of natural gas pipeline for collection and delivery of gas in the North Douglas Gathering System on the following public land:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 1 S., R. 102 W.
Sec. 11: E½,
Sec. 12: SW¼NE¼, NW¼NW¼, NE¼SW¼, W½SE¼,
Sec. 13: NW¼NE¼,
Sec. 14: NW¼NE¼.

The above-named gathering system will enable the applicant to collect and deliver natural gas. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any parties asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Western Slope Gas Company.*

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79–21980 Filed 7–16–79; 8:45 am]

BILLING CODE 4310–84–M

[ES 21359, Survey Group 90]

Wisconsin; Filing of Plat of Survey

July 5, 1979.

On February 16, 1979, a plat of dependent resurvey and survey of omitted lands in Sec. 17, T. 40 N., R. 13 E., Fourth Principal Meridian, Wisconsin was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, as of 10:00 a.m. on August 10, 1979.

This plat represents a dependent resurvey of a portion of the subdivisional lines of T. 40 N., R. 13 E., to restore the corners in their true original locations according to the best available evidence. It also serves to reestablish the record meander lines in Sec. 17 to include lands omitted from the original survey and not shown upon the plat approved October 4, 1865. Evidence indicates that no lake existed at the time of the original survey or at any subsequent date; thus, the adjusted meander lines do not follow any particular contour.

The omitted lands are described as:

Fourth Principal Meridian, Wisconsin

T. 40 N., R. 13 E.
Sec. 17: Lot 7 (5.75 acres); Lot 8 (25.89 acres); Lot 9 (12.82 acres); Lot 10 (28.69 acres); Lot 11 (31.54 acres).

The area described aggregates 104.69 acres, more or less.

The land described above is nearly level to gently rolling with elevation ranging from 1640 to 1700 feet. The lowland areas are dominated by peat and mucky soils and have such timber and vegetation as black spruce, tamarack, alder, cedar or marsh grasses, sedges and moss. In the upland area, the soil is sandy to gravelly, and timber consists of maples, birches, ash, white spruce, fir, aspen and pine. Vegetation found in the upland area includes raspberry briars, native grasses and sedges.

Lots 9, 10 and 11, Sec. 17 were found to be more than 50% swamp and overflowed in character within the purview of the Act of September 28, 1850 (9 Stat. 519). Title to this land, therefore, inured to the State of Wisconsin as of that date, and these lots are only open to selection by the State under that Act.

Lots 7 and 8, Sec. 17 were determined to be over 50% upland in character within the meaning of the Swamp Lands Act cited above. Therefore, they are public lands which, except for valid, existing rights, were included in Nicolet National Forest by Proclamation No. 2035 of March 2, 1933.

All inquiries relating to these lands should be sent to the Director (921), Eastern States, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22314, on or before August 10, 1979.

Thomas C. DeJocco,

Acting Director, Eastern States.

[FR Doc. 79–21981 Filed 7–16–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 37468]

New Mexico; Application

July 10, 1979.

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), Phillips Petroleum Company has applied for one 6⅝-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, Mew Mexico

T. 24 S., R. 32 E.,
Sec. 25, SE¼NE¼, SE¼SW¼, NE¼SE¼ and W½SE¼;
Sec. 35, E½SE¼.

T. 25 S., R. 32 E.,
Sec. 10, NE¼NE¼, S½NE¼, SW¼SW¼, E½SW¼ and NW¼SE¼;
Sec. 11, NW¼NW¼;
Sec. 15, NW¼NW¼;
Sec. 21, E½W½ and SW¼SE¼;
Sec. 28, W½E½;
Sec. 33, E½E½and NW¼NE¼.

T. 26 S., R. 32 E.,
Sec. 3, SW¼NW¼ and W½SW¼;
Sec. 4, E½NE¼;
Sec. 10, W½NW¼, SE¼NW¼ and E½SW¼;
Sec. 15, SW¼NE¼, E½NW¼ and W½SE¼;
Sec. 22, W½NE¼, NW¼SE¼ and E½SE¼;
Sec. 26, SW¼NW¼ and W½SW¼;
Sec. 27, E½NE¼;
Sec. 35, lot 4 and NW¼NW¼.

T. 22 S., R. 33 R. 33 E.,
Sec. 35, NE¼NE¼ and W½E½.

T. 22 S., R. 34 E.,
Sec. 4, E½SE¼ and NW¼SE¼;
Sec. 9, N½NW¼, SW¼NW¼ and NW¼SW¼;
Sec. 17, W½NE¼; and NW¼SE¼.
Sec. 19, lot 4, E½SW¼.

This pipeline will convey natural gas across 15.206 miles of public lands in Lea County, New Mexico.

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, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-21996 Filed 7-16-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37415, 37416, 37472, 37474, 37523, 37525, 37658 and 37660]

New Mexico; Applications

July 6, 1979.

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 Company has applied for eight 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 26 N., R. 2 W.,
Sec. 19, lot 2;
Sec. 20, W½NW¼;
Sec. 29, SW¼NW¼;
Sec. 30, lot 2.

T. 26 N., R. 8 W.,
Sec. 20, N½NE¼.

T. 31 N., R. 10 W.,
Sec. 23, lot 6.

T. 32 N., R. 11 W.,
Sec. 31, lot 1;
Sec. 33, N½SW¼.

T. 32 N., R. 12 W.,
Sec. 23, SE¼NE¼;
Sec. 24, SW¼NW¼;
Sec. 27, SE¼SE¼.

These pipelines will convey natural gas across 1.260 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

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, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-21997 Filed 7-16-79; 8:45 am]

BILLING CODE 4310-84-M

[UT-020]

Salt Lake District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Salt Lake District Grazing Advisory Board will be held on August 6, 1979.

The meeting will begin at 1:00 p.m. in the conference room of the Bureau of Land Management, 2370 South 2300 West, Salt Lake City, UT 84119.

The purpose of the meeting will be to give advice and recommendations for the expenditure of the district's Range Betterment Funds and a status report on the district's Environmental Impact Statement Progress.

The meeting is open to the public. Interested persons may make oral statements between 1:00 to 2:00 p.m. on August 6 or file written statements for board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, UT 84119, by July 30, 1979. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Frank W. Snell,

District Manager.

June 3, 1979.

[FR Doc. 79-21998 Filed 7-16-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Floodplains and Wetlands Executive Orders; Final Procedures

AGENCY: Bureau of Reclamation, Department of the Interior.

SUMMARY: These final procedures provide instructions and guidance to Bureau of Reclamation offices for the uniform implementation of Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) which were issued in furtherance of the National Flood Insurance Act of 1968, as amended; the National Flood Disaster Protection Act of 1973; and the National Environmental Policy Act of 1969, and hereinafter referred to as Orders.

EFFECTIVE DATE: These procedures will become effective August 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Ellingboe, Director, Planning Policy Staff, Bureau of Reclamation, 18th and C Streets, NW., Washington, DC 20240 (202-343-4787).

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation's final procedures adopt a major degree the Floodplain Management Guidelines for Implementing Executive Order 11988, published by the U.S. Water Resources Council (43 FR 6030). These guidelines provide a description of the process for implementing the Order and an explanation of terms and floodplain management concepts. The procedures were published in draft notice form on October 27, 1978. Public comments have been received through November 27, 1978. Comments were also received from the following: Council on Environmental Quality, Water Resources Council, and Federal Insurance Administration. Comments received were generally similar in addressing the need for more specificity and detail in the guidelines and procedures to assure better implementation of the Orders. Broadly stated, the comments similarly addressed the need to—designate an official responsible for ensuring actions are implemented in compliance with the Order; expand definitions of key words and concepts; assure that harm to lives, property, and floodplain values is properly minimized; assure that applicants for facilities use permits and grants; evaluate the effect of applicant proposals on floodplains and wetlands prior to approval; assure that proper restrictions are placed on property proposed for lease, easement and disposal to non-Federal public or private parties; define the public audience and ensure their continuous involvement in floodplain decisionmaking; prescribe how alternative sites will be identified and evaluated, and how impacts will be determined. Inasmuch as the proposed procedures did not attempt to prescribe detailed implementing procedures in all cases, we found those comments to be most helpful in finalizing our implementation procedures.

Bureau of Reclamation Compliance With Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

Series 110/120, Planning Policy and Procedure, Part 121, Floodplain Management and Protection of Wetlands.

.1 *Authority.* These procedures are in accordance with the Water Resources Council Floodplain Management Guidelines (43 FR 6030) and the Department of the Interior's Interim Guidelines (520 DM 1 6/11/79). The procedures pertain to the planning, design, construction, operation and maintenance programs, and the small projects and distribution system loan programs of the Bureau of Reclamation.

.2 *Objectives.* The basic objective of the Reclamation program is the development and conservation of water and related land resources. In accomplishing this objective, the Bureau assists the States, local governments, and other Federal agencies to stabilize and stimulate regional and local economies, enhance and protect the environment, and improve the quality of life in the 17 contiguous Western States and Hawaii. The procedures to implement the Orders are applicable to all Bureau of Reclamation actions. Under the Reclamation program procedures and guidelines, all actions that are undertaken are in accordance with, but not limited to Orders and Guidelines previously referenced herein and the following:

.1 Unified National Program for Floodplain Management, Water Resources Council, 1976.

.2 Executive Order 11514, Protection and Enhancement of Environmental Quality.

.3 Office of Management and Budget OMB Circular A–95.

.3 *Responsibility of Bureau of Reclamation Officials.*

.1 The Commissioner of Reclamation, within the delegated authority of the Department of the Interior, has responsibility for implementing these final procedures.

.2 The Reclamation Regional Directors, under authority delegated by the Commissioner of Reclamation, are responsible for implementing these final procedures in concert with departmental and Reclamation Instructions.

.4 *Definitions of Key Terms:*

.1 *Action*—any Bureau of Reclamation activities including but not limited to construction; modification and rehabilitation; operation and maintenance; land acquisition or change in use; issuance of licenses, fees, and permits; and disposal of Federal lands and facilities.

.2 *Base Flood*—is that flood which has a 1 percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

.3 *Base Floodplain*—the 100-year floodplain (1 percent chance floodplain). Also see definition of floodplain.

.4 *Critical Action*—any activity for which even a slight chance of flooding would be too great, such as storing lunar samples or highly toxic or water reactive materials.

.5 *Facility*—any item constructed or located by a person including buildings, structures and utility items, canals, distribution systems, roads and bridges, and other land development items such as drainage canals.

.6 *Flood or Flooding*—a general condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, or unusual and rapid accumulation surface waters from any source.

.7 *Flood Fringe*—that portion of the floodplain outside of the regulatory floodway (often referred to as "floodway fringe").

.8 *Floodplain*—land areas adjoining a river or other water courses including at a minimum, that area subject to a 1 percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (1 percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

.9 *Floodproofing*—the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce the effects of water entry.

.10 *Minimize*—to reduce to the smallest practicable amount or degree.

.11 *One Percent Chance Flood*—the flood having one chance in 100 of being exceeded in any 1-year period (a large flood). The likelihood of exceeding this magnitude increases in a time period longer than 1 year, e.g., there are two chances in three of a larger flood exceeding the 1 percent chance flood in a 100-year period.

.12 *Practicable*—capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost, or technology.

.13 *Preserve*—to prevent modification to the natural floodplain environment or to maintain it as closely as possible to its natural state.

.14 *Regulatory Floodway*—the area regulated by Federal, State or local requirements; the channel of a river or other watercourse and the adjacent land areas that must be reserved in an open manner; i.e., unconfined or unobstructed either horizontally or vertically to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed 1 foot as set by NFIP).

.15 *Restore*—in the event of agency activities, to reestablish a setting or environment in which the natural functions of the floodplain can again operate.

.16 *Support*—actions which encourage or otherwise provide incentives to undertake floodplain or wetlands development, such as extending roads or utilities into or near a floodplain, therefore making floodplain development more feasible.

.17 *Wetlands*—those areas that are frequently inundated by surface or ground water and normally support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands also could be interpreted to include canals, seeps, reservoirs, drains, and other conditions resulting from or associated with features of water control projects.

.5 *Basic Principles.* The policy of the Bureau of Reclamation is to incorporate into all agency activities whatever provisions are necessary to:

.1 Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and wetlands;

.2 Avoid direct or indirect support of floodplain and wetlands development wherever there is a practicable alternative;

.3 Reduce the risk of flood loss;

.4 Minimize the impact of floods on human health, safety, and welfare;

.5 Preserve, and protect the natural and beneficial values served by floodplains and wetlands;

.6 Where impacted by agency construction activities to restore floodplains and wetlands;

.7 Develop an integrated process to involve the public in the floodplains and wetlands management decisionmaking process;

.8 Implement the Unified National Program for Flood Plain Management; and,

.9 Establish internal management controls to monitor Bureau of Reclamation actions to assure compliance with the procedures set forth herein.

.6 *Application of Principles.*

.1 To the extent practical, the Bureau of Reclamation will integrate floodplain management and wetland protection requirements into its construction and operation programs and consultation, planning, and decision processes. Following publication, the Bureau of Reclamation will systematically review and up-date pertinent rules, regulations, and guidelines to implement these procedures. The conceptual framework and recommendations for achieving a viable floodplain management program at all levels of the government set forth in the Unified National Program for Floodplain Management (Public Law 90–448, Section 1302—Water Resources Council, 1976) will be incorporated into Reclamation Instructions. In the interim, all Bureau offices have been directed to integrate congressional and Presidential directives for floodplain management and wetlands protection into all Bureau programs.

.2 As an integral part of its program, the Bureau of Reclamation will implement the methods, standards, and definitions of terms as set forth in Part II—Decisionmaking Process of the Water Resources Councils guidelines for determining risks and hazards of flood loss, minimization of impact on health, safety, and welfare; and the evaluation of alternatives including the restoration and preservation of beneficial floodplain values. The Bureau of Reclamation will deviate from that process only when Bureau or departmental missions and programs will be more adequately served by a modified procedure. When the affected floodplain includes wetlands, the application of these procedures will also reflect the wetland guidelines and considerations. For actions proposed in wetlands or in a floodplain, the following procedural steps will be addressed and integrated into the planning process.

A. *Floodplain Boundaries.* Base floodplain boundaries and 500-year floodplain boundaries for critical actions will be determined and identified with the proposed action. Consideration will be given to the implications of the occurrence of a flood larger than the base flood where a slight chance of flooding would endanger essential public facilities and services. All structures and facilities and operations effecting the floodplain will be evaluated and reported in the project planning reports. Actions which may indirectly impact or indirectly support development in the base (substitute "500-year" for "base" in critical cases) floodplain also will be assessed and reported on. When available, Department of Housing and Urban Development published maps for determining the location of Bureau facilities within both the 100-year and 500-year floodplain will be used. Additional maps will be developed where published information is lacking or additional detail is required.

B. *Public Involvement.* To insure that adequate information and opportunities at all levels of program development are provided early in the decisionmaking process to allow the public to effectively participate in floodplain and wetland decisions, the public involvement procedures for these and other planning and operation and maintenance activities shall:

(1) Include notice of proposed action to appropriate OMB Circular A–95 clearinghouse in the furtherance of (1) Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; (2) Title IV of the Intergovernmental Cooperation Act of 1968; (3) section 102(2)(C) of the National Environmental Policy Act of 1969; (4) the Coastal Zone Management Act of 1972; and, (5) objectives of Title VI of the Civil Rights Act of 1964. Also covered are leases, licenses, and permits for the uses of Federal land under the Bureau's jurisdiction as well as the acquisition and disposal of land; and under Public Law 91–646, the relocation of persons, businesses, farms, and nonprofit organizations displaced as a result of the land acquisition.

(2) Include as broad an audience as appropriate to insure that adequate information and opportunities are provided the public for participation in the decisionmaking process involving floodplains and wetlands. The policies and objectives for public involvement are generally parallel with planning procedures contained in Reclamation Instructions and are based on the National Environment Policy Act of 1969 regulations. However, specific references to the Orders and objectives contained herein will be included in the public participation program. Notices of proposed actions involving floodplain and wetlands will be published in the local newspapers. In addition, copies of the notices will be mailed to local and State governing bodies, adjacent property owners, and concerned individuals and organizations. The list of recipients of the notices will include other active Federal agencies at headquarters and regional levels, conservation groups, farm and taxpayer organizations. The press release of the notices, will contain the scheduled dates and locations of public hearings and meetings.

Where considerable public interest in the proposed action is anticipated, public meetings will be scheduled as often as required to allow full discussion of the issues at an early planning stage. A record of the public involvement efforts and a summary of comments will be maintained in the project files for public reference. Publication of proposed actions involving sensitive and controversial issues will be published in the Federal Register;

(3) Provide timely opportunities for all segments of the public to provide their comments on an action or plan before alternative actions or plans have been precluded. The public in the affected areas shall be advised early, through the public participation process, whenever a proposed plan will result in activity in the base floodplain or wetlands. In addition to existing Water Resources Council, National Environmental Policy Act of 1969, and Executive Order 11514, public involvement processes, the Bureau of Reclamation will use other public information methods such as continuing interaction and involvement opportunities; news releases, newsletters, and public meetings to inform the interested publics. When a determination has been made that there is no practicable alternative to locating an action in the floodplain, the Orders require the reporting of this finding by various procedures. In addition, the Order requires early public review of plans whenever an action is proposed for the floodplain or wetlands. With some minor exceptions, existing Reclamation Instructions contain adequate guidelines for reporting requirements of the Orders. The following additional information shall be included in existing reporting requirements, as appropriate, for general investigation studies, projects in engineering and design stages, activities under the operations and maintenance program, and projects under construction.

C. *Program Evaluation.* If there is no practicable alternative to locating an action in the floodplain, a public notice shall be prepared and circulated to the general public. The notice shall include the following:

(1) a description of why the action must be located in the floodplain or wetlands;

(2) a description of significant facts considered in making the determination to locate in the floodplain or wetlands, including alternative sites and actions considered and any tradeoffs that were made; and

(3) a statement indicating whether the proposal conforms to applicable State or local floodplain protection standards.

The public notice issued upon completion of a study action or its equivalent will serve as the means to satisfy these requirements of the Order. Public notices shall provide specific information pertaining to subparagraphs (1), (2), and (3) of this paragraph, and the notices shall be appropriately disseminated to the general public in the affected area. Future notices submitted to State and areawide A–95 clearinghouses will include the additional information required by the Orders.

D. *Proposed Development.* Requests for new authorizations or new appropriations for construction starts submitted to the Congress should provide information on whether a proposed action will be located in the floodplain or wetlands. If the proposed action is located in the floodplain or wetlands, the submittal to Congress will provide information on compliance with the Orders. This will include statements on whether the action affects the natural and beneficial values of the floodplain or wetlands; steps taken to minimize potential harm to or within the floodplain or wetlands caused by the action; and steps taken to restore and preserve the natural and beneficial floodplain or wetlands values.

E. Since Bureau of Reclamation program actions are subject to the provision of the National Environmental Act of 1969, a statement of findings on actions located in the floodplain and wetlands will be prepared to accompany environmental statements and feasibility reports to include, in addition to existing requirements, the following:

(1) Reasons why the proposed action must be located in the floodplain, or wetlands.

(2) Facts considered in making the determination to locate in the floodplain or wetlands, including alternative sites and actions considered.

(3) Statement on whether the proposed action conforms to applicable State or local floodplain or wetlands protection standards.

(4) Statement on whether the action affects the natural and beneficial values of the floodplain or wetlands.

(5) Description of steps taken to design or modify the proposed action in order to minimize potential harm to or within the floodplain or wetlands; and

(6) A general listing of other involved agencies, groups, and organizations.

All planning reports will contain a thorough analysis of activities in or potentially effecting the floodplain or wetlands and will be sent to the following offices nearest the site of the proposed action for public access: Environmental Protection Agency, Federal Insurance Administration, Geological Survey, Fish and Wildlife Service, Corps of Engineers, Soil Conservation Service, Bureau of Indian Affairs, and State agencies for land and water activities.

F. All proposed Bureau of Reclamation actions will be evaluated to determine where alternatives exist to development on floodplain or wetland areas. Alternatives to be evaluated include:

(1) carrying out the proposed action at a location outside the base floodplain or wetlands (alternative sites);

(2) other means which accomplish the same purpose (alternative actions); and

(3) no action.

From these alternatives, including a no action alternative, the most practicable solution will be selected and the analyses leading to conclusion will be documented and made available for review by the public as part of the project report.

G. *Program Impacts.* Under Reclamation Instructions and application of the Water

Resources Council—Water and Related Land Resources, Establishment of Principles and Standards (38 PT. III FR 24778), the costs and impacts of practical alternatives to floodplain development and for wetlands protection will be formulated to optimize beneficial effects of the National economic development and environmental quality objectives. Direct or indirect Federal support of floodplain development or of new construction in wetlands must be avoided where alternatives exist to reduce or eliminate impacts of the proposed action. The Bureau of Reclamation will address in its National Environment Policy Act documents the following types of impacts:

(1) Positive and negative impacts (beneficial and harmful);

(2) Concentrated and dispersed impacts (impacts on-site, near-site, and remote from the installation); and

(3) Short- and long-term impacts (include temporary changes and those that take the form of delayed changes resulting from the cumulative effects of many individual actions).

In addition, the impact-related issues to be addressed are:

(a) Impacts of development in the floodplain and wetland areas related to the general concepts of occupancy and modification.

(b) Harm to lives and property from flood hazards.

(c) Harm to natural and beneficial values of floodplain and wetland areas.

(d) Restoration of floodplains and wetlands values, if applicable, to the proposed action.

H. As part of the assessment of the effect of proposed actions related to floodplains and wetlands, the Bureau of Reclamation will minimize to the extent practicable the potential impacts or support to or within floodplains and wetlands identified under item F, above; restore and preserve the natural and beneficial values served by the floodplains; and preserve and enhance the natural and beneficial values of wetlands.

I. *Program Evaluation.* The Bureau of Reclamation will reevaluate the proposed action to determine first, if it is still practicable in light of its flood hazards and its potential to disrupt floodplain and wetlands values and second, if alternatives rejected under item G, are practicable in the light of information gained in items F and G.

J. *Report of Findings.* If there is no practicable alternative to locating an action in the floodplain or wetlands, a report of this finding will be made to the public as a part of existing planning and National Environmental Policy Act of 1969 procedures. The public review will be accomplished under the existing Bureau of Reclamation reporting procedures. The public notice issued upon completion of a study action, review of an environmental statement for a proposed action, or its equivalent will serve as the means to satisfy these requirements of the Order. The following information is required by Executive Order 11988 and shall be included with existing reporting requirements, as appropriate, for general investigation studies, projects in design and construction stages, studies under special authorities, and activities under the operations and maintenance program, and shall apply to both floodplains and wetlands:

(1) A discussion of why the action must be located in a floodplain or wetland;

(2) A description of significant facts considered in making the determination to locate in a floodplain or wetland, including alternative sites and actions considered and any tradeoffs that were made and any restoration required; and

(3) A statement indicating whether the proposal conforms to applicable State or local floodplain or wetland protection standards.

K. Bureau instructions, procedures, and working guidelines will be up-dated to insure that there is a continuing compliance with the Orders for newly implemented Bureau projects along with long-term operation and maintenance programs.

.7 *Applications to Bureau's Program.* The procedures will apply to projects or programs for which draft or final environmental impact statements have been filed prior to May 24, 1977, nor to projects currently under construction nor for which construction funding was approved in the fiscal year 1979 program.

.1 *Planning Studies.* At the earlies stages of planning, the Regional Director shall assure that policy and guidelines of these final procedures shall be employed in the multi-objective planning process to a scope and level appropriate for appraisal, feasibility, and definite plan studies. For those studies for which reports have been completed and forwarded to the Commissioner of Reclamation in draft or environmental statements which were not filed prior to May 24, 1977, supplemental information concerning implementation in compliance of these procedures shall be provided.

.2 *Design and Construction.* Assistant Commissioner—Engineering and Research shall insure that projects in the design and construction stage comply with the intent and objectives of the Orders as set forth in these final procedures. Facilities to be located in floodplains will be constructed, at a minimum, in accordance with the standards and criteria promulgated under National Flood Insurance Program. Deviations are allowed only to the extent that these standards are inappropriate in meeting Bureau of Reclamation objectives authorized by Congress.

.3 *Operation and Maintenance Activities.* The policies and guidelines of these final procedures are applicable to operation and maintenance activities of the Bureau of Reclamation. Regional Directors shall insure that projects operated and maintained within their jurisdiction comply with the policies set forth in these procedures as they relate to all Federally financed power facilities and water storage, conveyance, distribution, drainage, and groundwater works, whether operated by Bureau, water user organization, or other beneficiaries. Provisions of these final procedures also apply to acquisition of land, management and disposal of land, and other real property; development, administration and coordination of recreation and fish and wildlife programs; and public use of project lands and waters, including identification, protection, preservation, and maintenance of cultural resources. In accordance with the steps of implementation of these procedures outlined under Item B, *Bureau of Reclamation Compliance with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)*, the procedures also apply to acquisition of land, management and disposal of land, and other real property.

A. When considering a request for the lease or rental of Reclamation land by a non-Federal public or private entity, the potential effects on any floodplain or wetland area resulting from the proposed use of the land must be evaluated to determine if the proposal would or could encourage modification or development which could lead to human habitation of the floodplain or wetland area.

B. When proposing to convey right or title to Reclamation lands within a floodplain or wetland to non-Federal public or private entity, Reclamation shall:

(1) Reference in the conveying document those uses that are restricted under identified Federal, State, or local floodplain or wetland regulations; and

(2) Attach other appropriate existing restrictions to the use of properties by the grantee or purchaser and any successors, except where prohibited by laws; or

(3) Withhold such properties from conveyance; and

(4) For recreation or other public use areas located in a floodplain or wetland, the Bureau of Reclamation shall provide on project facilities in this area and other places where appropriate, conspicuous delineation of the 100-year and 500-year flood levels, flood of record, and probably flood height in order to enhance public awareness of flood hazards. In addition, field installations shall review their storm control and disaster plans to assure that adequate provision is made to warn and evacuate the general public as well as employees. These plans will include the integration of adequate warning time into such plans.

Dated: July 11, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-21862 Filed 7-16-79; 8:45 am]

BILLING CODE 4310-09-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 6, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under

the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by July 27, 1979.

Charles A. Herrington,

Acting Keeper of the National Register.

ARIZONA

Maricopa County

Tempe, *Andre Building*, 401—403 S. Mill Ave.

CALIFORNIA

Humboldt County

Ferndale vicinity, *Grizzly Bluff School*, E of Ferndale on Grizzly Bluff Rd.

COLORADO

Adams County

Westminster, *Westminster University*, 3455 W. 83rd Ave.

Denver County

Denver, *Field, Thomas M., House (Colorado State Home for Dependent Children)*, 2305 S. Washington St.

El Paso County

Colorado Springs, *Rio Grande Engine No. 168*, 9 S. Sierra Madre.
Colorado Springs, *Y.W.C.A.*, 130 E. Kiowa St.

HAWAII

Hawaii County

Hilo, *District Courthouse and Police Station*, 141 Kalakaua St.
Kapaau, *Kohala District Courthouse*, Government Rd.

Kauai County

Kapaa, *Seto Building*, Kuhio Hwy.

MARYLAND

Kent County

Chestertown, *Middle, East and West Halls*, Washington Ave.

MASSACHUSETTS

Essex County

Lawrence, *Downtown Lawrence Historic District*, roughly bounded by MA 110, Methuen, Lawrence and Jackson Sts.
Lynn, *Lynn Armory*, 36 S. Common St.
Lynn, *St. Stephen's Memorial Church*, 74 S. Common St.

Plymouth County

Hanover, *Stetson House*, Hanover St.

Suffolk County

Boston, *Lynn, Arthur J. (schooner)*, Charlestown Naval Shipyard.

Worcester County

Southbridge, *Centre Village Historic District*, along Main St.

MINNESOTA

Rice County

Faribault, *Cathedral of Our Merciful Saviour*, 515 NW. 2nd Ave.

St. Louis County

Virginia, *Valon Tuote Raittiusseura (Reward of Light Temperance Society)* 2nd Ave. North and 3rd St.

MISSOURI

St. Louis (independent city).
Hadley-Dean Glass Company, 701–705 N. 11th St.

MONTANA

Deer Lodge County

Anaconda, *Ancient Order of Hibernians Hall*, 321–323 E. Commercial Ave.
Anaconda, *City Hall*, 401 E. Commercial St.

Powell County

Deer Lodge, *Bielenberg, Nick J., House*, 801 Milwaukee Ave.

NEW JERSEY

Atlantic County

Mays Landing, *Richards, Samuel, Hotel*, 106 E. Main St.

Mercer County

Lawrenceville vicinity, *Baker-Brearley House*, E of Lawrenceville on Meadow Rd.

NEW YORK

Columbia County

Valatie, *First Presbyterian Church*, Church St.

Greene County

Windham, *Centre Presbyterian Church*, Main and Church Sts.

Schoharie County

Gallupville, *Gallupville House*, Main St.

OREGON

Multnomah County

Portland, *Espey Boarding House*, 2601–2605 SW. Water Ave.
Portland, *Hyland, Olive and Ellsworth Apartments (Bronaugh Apartment Building)* 716 SW. 15th Ave., 1424 and 1434 SW. Morrison St.
Portland, *Oregon Cracker Company Building*, 616 NW. Gibsan St.

TENNESSEE

Hamblen County

Lowland vicinity, *St. Paul Presbyterian Church*, W of Lowland.

TEXAS

Brown County

Brownwood, *St. John's Episcopal Church*, 700 Main Ave.

Galveston County

Galveston, *Trinity Protestant Episcopal Church*, 22nd St. and Ave. G.

Nueces County

Violet, *Old St. Anthony's Catholic Church*, S. Violet Rd. and TX 44.

Walker County

Riverside vicinity, *Riverside Swinging Bridge*, NE of Riverside (also in Trinity County).

VERMONT

Washington County

Barre, *Barre Downtown Historic District*, VT 302.

WISCONSIN

Milwaukee County

Milwaukee, *North Point South Historic District*, roughly bounded by North Ave., Summit, Terrace, and Lafayette Sts.

[FR Doc. 79–21616 Filed 7–16–79; 8:45 am]
BILLING CODE 4310–03–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. ARA Services, Inc.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comments on the proposed judgment filed with the United States District Court for the Eastern District of Missouri, Eastern Division, in Civil Action No. 77–1165–C(1), United States of America v. ARA Services, Inc., were received by the Department of Justice and are published herewith, together with Justice's response to the comments. Various attachments to the comments may be inspected at or copies thereof may be obtained from; the Legal Procedure Unit, Room 7416, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530. They may also be inspected at the office of the Clerk for the Eastern District of Missouri, Eastern Division.

Dated: July 11, 1979.

Charles F. B. McAleer,

Special Assistant for Judgment Negotiations, Office of Operations, Antitrust Division.

U.S. District Court for the Eastern District of Missouri, Eastern Division

United States of America, Plaintiff, *ARA Services, Inc.*, Defendant.

No. 77–1165–C(1).

Response of United States to Comments Relating to Proposed Final Judgment Against Defendant

A. Introduction

Pursuant to 15 U.S.C. 16(b) the United States submits this response to comments and supporting materials filed by five persons relating to a proposed Final Judgment that would, if approved by this Court, conclude this action against defendant, ARA Services, Inc. [ARA]. Previously, the Department of

Justice responded to objections lodged against the proposed Final Judgment by the Federal Trade Commission. The comments were received from:

(1) William R. D'Armond, Esq., counsel for Bayou News Agency, Inc. [Bayou] a competitor of ARA in the metropolitan New Orleans area;

(2) Bernard Edelman, Esq., counsel for Egypt News Company, Inc. [Egypt] a competitor of ARA in the metropolitan St. Louis area;

(3) Frank Herrera, President of the Independent News Company [Independent] which supplies periodicals and paperback books to wholesalers such as ARA and its competitors;

(4) Olwine, Connelly, Chase, O'Donnell & Weyher, counsel for Palmer News, Inc. [Palmer] a competitor of ARA in the metropolitan Kansas City area; and

(5) Mize, Houser, Mehlinger and Kimes [Mize], who are the accountants for Palmer.

In general, ARA's competitors complain that the decree does not require sufficient divestiture of retail business in the three relevant markets. Independent poses a more limited comment by seeking more specific language than the proposed Judgment on its "right" to choose with whom to do business.

B. The Theory of the Equitable Relief Sought

The United States believes that much of the opposition to the proposed judgment is based on a fundamental misunderstanding by ARA's competitors as to the purpose of this lawsuit. The complaint merely charges ARA with having unlawfully acquired four wholesale periodical distribution agencies owned by the Molasky family [Molasky] in violation of two paragraphs of a Federal Trade Commission Order entered against ARA.

The commentors also ignore the basic concept of a consent settlement. Such a settlement implies a compromise, and does not demand that the Government obtain all of the relief which would be legally possible. The equity powers of a Court are inherently broad, but even they are used only after successful litigation of the issue of liability and to the extent reasonably necessary to enjoin the violation and restore competition. Both parties to the settlement must, therefore, make a balanced judgment as to the wisdom of the settlement proposal versus the risks of litigation. See *United States* v. *Gillette*, 406 F. Supp. 713, 716 (D. Mass. 1975).

Palmer argues that the proposed judgment "would approve ARA's continued growth, its acquisition and retention of additional wholesale operations, and the further expansion of its economic power" (Comment at 7). Palmer also claims that ARA's actions are indicative of an unlawful monopolist. (Comment at 17.) However, the United States did not charge ARA in this case with either being a monopolist or attempting to monopolize the periodical distribution industry under the Sherman Act.

Similarly, Palmer states that this Court should consider ARA's alleged "pressure applied to the national distributors" and other "predatory conduct" leading to Molasky's demise in 1976. (Comment pp. 23–27.) We not that the F.T.C. Order, which formed the basis for the instant suit contains in Paragraph VII specific and general prohibitions against predatory practices by ARA. Palmer would have this Court believe that the government has charged ARA with violations of Paragraph VII. Had we done so, many of Palmer's arguments regarding ARA's alledged predatory conduct might be relevant to the equitable relief sought in the case. However, the United States did not so charge ARA in this case. We merely alleged that ARA made four unlawful acquisitions.

Palmer claims that the United States has taken "a narrow view" of this action and should detemine what business ARA acquired through "lawful competition." (Comment at 23.) But the United States must rely on the allegations made in the complaint and the relief sought therein. The correctness of this position is amply demonstrated in *United States* v. *National Broadcasting Co., Inc.*, 449 F. Supp. 1127 (C.D. Cal. 1978). There the court addressed whether under the Antitrust Procedures and Penalties Act [A.P.P.A.], 15 U.S.C. 16(b), it should enter a proposed consent Judgment. Several persons objected to the settlement because it failed to alleviate an alleged lack of price competition between the three major televison networks. The court rejected this objection noting that:

The proposed judgement must be viewed in light of the government's limited objectives. Apparently, the government by the three pending lawsuits chose not to challenge therein the oligopolistic structure of the television industry. *Id.* at 1137.

It also noted that:

The relief provided by the judgement is consistent with the government's general theory of liability as manifested in its complaint. The actions against the three television networks never were instituted for the purpose of breaking up their oligopolistic control of the television industry or for the purpose of fostering competition among the three of them. *Id.* at 1145.

Accordingly, while Palmer is correct that the United States has not examined the "one wholesaler" theory which holds that in the long-run only one wholesaler can survive in a market (Comment at 27–30), the United States never intended that this case would address or resolve the issue.

Thus, it is clear that Palmer, which has filed an antitrust suit against ARA and some national distributors, *Palmer News Inc., et al.* v. *ARA Services Inc., et al.*, Civil Action No. 754–254–C5, (D. Kan.), is trying to interject into this case issues which may be relevant to its private action but are not relevant to the equitable relief sought in the case at bar.

Egypt's objections also show that it misunderstands the purpose of the relief sought by the United States in this case. Other than the civil penalty, the United States has merely sought "equitable relief" provided for under 15 U.S.C. 45(1), and this Court's equitable powers. Egypt however, argues that the divestiture was intended to "punish ARA for its [past] actions." (Comment at 10.) Egypt is incorrect. The divestiture sought in the compliant was not designed to punish ARA in any way. Rather, the United States has sought to take from ARA retail business and physical assets which were acquired in violation of Paragraphs V(3) and VI of the F.T.C.'s Order. Our goal is thus consistent with the Court's finding in *United States* v. *DuPont*, 366 U.S. 316, 326 (1961), that the divestiture remedy in an antitrust case is not punitive but rather is an equitable one, designed to redress the violations charged in the case.

The United States in proposing this Final Judgment is attempting to promote competition only as empowered by the relief and the statutory authority cited in the complaint, taking into consideration that this is a judgment based on a compromise. Palmer (Comment at 14) claims that the decree will not result in the entry of a new wholesaler in the relevant markets. Whether this is true or not, the United States must be guided, as a practical matter, in its ability to further promote competition, by the relief it could have reasonably expected to get had this action gone to trial.

In fashioning the equitable relief in the proposed Final Judgment, the United States has therefore attempted to delineate between the Molasky assets and business which ARA obtained because of the violative acts charged in the complaint and that which ARA obtained through competition against Molasky and ARA's present competitiors. The reason is clear. The F.T.C.'s Cease and Desist Order against ARA does not prevent ARA from competing with other wholesalers for retail business. If ARA enters a new market and persuades a retail customer to accept service from ARA, ARA has not automatically violated Paragraphs V(3) or VI of the F.T.C. Order. However, if ARA's commencement of service is due to other conduct such as taking over the physical facilities of an existing wholesaler, then ARA may well have made an unlawful acquisition.

The above theory is best demonstrated by a memorandum which ARA's counsel submitted to the F.T.C. prior to the entry of the Cease and Desist Order in question. ARA told the Commission in October, 1972 that it had recently made a *de novo* entry into Kansas City. ARA had opened its own warehouse as a base of operations "with the full realization that there cannot be two profitable operations in that area." The F.T.C. thereafter adopted the consent Order with full knowledge that ARA was seeking retail business in Kansas City from this *de novo* entry. The only reasonable conclusion is that the Order does not prohibit ARA from growth through competition even if the result is an increase in ARA's market share or influence. Thus Palmer's observations (Comment at 6) that ARA's national market share has increased following entry of the consent Order begs the key question. Has the increase come from an acquisition or through competition which is permitted under Paragraphs V(3) and VI of the F.T.C. Order? If growth is through the former, then Paragraphs V and VI of the Consent Order provide a basis for removing the growth. But if ARA has increased in size through competition, these Order paragraphs provide no governmental remedy. There may be other

legal sanctions (not part of this case) which would block ARA's growth.

With this theory as a focus, the government concentrated on the former Molasky business and assets ARA took over in 1976 and early 1977 as a result of the unlawful acquisitions. We quickly determined that physical assets such as trucks and warehouses which formerly were used by Molasky came into ARA's possession as a result of a written agreement between ARA and Molasky and thus were part of an unlawful acquisition of Molasky. These physical assets have generally been ordered divested under the proposed consent Judgment for that reason. However, we determined (and so stated in the Competitive Impact Statement) that half of the new retail sales business generated from accounts which ARA began to service during and after Molasky's demise in the second half of 1976 did not come to ARA as a result of the four unlawful acquisitions.

A starting point in understanding this notion is the general practice in the periodical distribution business that a retailer accepts service from a wholesaler without a contract requiring the retailer to accept service for a time certain. Palmer's own counsel told us in January, 1978, that:

With the possible exception of smaller (and thus less significant) retail accounts, owned and operated by unsophisticated, small businessmen, the existing customers of ARA are generally aware that they have no legal obligation to continue doing business with ARA and that they are legally free to change to another wholesaler. Letter from Charles M. Waygood, January 19, 1978.

Thus generally retailers did not accept service from ARA in the relevant markets, either before or after Molasky's demise in December, 1976, because the retailer had a contract with Molasky to accept service for a definite period. Similarly, the proposed Judgment in no way prevents any of ARA's competitors from soliciting new retail business from ARA's current retail accounts.

Egypt (Comment at 9) claims that ARA would have gotten little Molasky retail business had many of the national distributors not assigned the Molasky "allotments" of periodicals to ARA. While ARA's acceptance of the allotments was in fact part of ARA's violative conduct, the United States did not conclude from its investigation that ARA's action in this regard had produced a substantial competitive benefit to ARA *vis-a-vis* other wholesalers.

We found that many retailers accepted ARA service for the reasons cited in the Competitive Impact Statement—because (1) ARA was more local than its surviving competitors since its distribution facilities (not the ones acquired from Molasky) were closer to the major retail accounts being solicited than the facilities of its competitors; (2) ARA was more established and better known to retailers than its competitiors due to a longer presence in the cities and a more extensive sales drive; and (3) ARA was thought to be more financially stable than the competitors (Competitive Impact Statement at 11). The United States found nothing in any of the comments submitted, or even of the deposition testimony taken in this case of ARA's competitors which in any way refutes this conclusion. Indeed, ARA's competitors have in depositions, interviews and papers filed in this case, at least by inference, supported the government's theory, that ARA's Order violations did not contribute to its obtaining much of the Molasky sales volume which ARA took over in 1976 and early 1977.

For instance, Egypt has never had a warehouse closer to St. Louis than its present warehouse in Union, Missouri. ARA's warehouse prior to Molasky's demise was in Berkeley, Missouri, within close vicinity to most of the major chain stores in the St. Louis area. Egypt's chief operating officer, Robert Austin, testified that Egypt was not interested in hiring, in 1976, the two individuals who were "holding [Molasky] together" before the firm's demise (Deposition of Robert A. Austin, April 10, 1978, pp. 145–150), persons who were later hired by ARA. Similarly, Bayou's President testified that Bayou opened a warehouse facility in metropolitan New Orleans just four months before Molasky's demise and two full years after ARA opened a warehouse in New Orleans. (Desposition of Earl Graham, May 4, 1978, pp. 81–82.) Even after Molasky's closing, when Bayou had obtained considerable Molasky sales volume Bayou had some difficulty holding on to retail business due to service problems apparently unrelated to ARA's acquisitions. Finally, Palmer, ARA's largest (and probably only) competitor in Kansas City did not open a Kansas City facility until a month before Molasky's closing in December, 1976. Even then Palmer had just four or five employees and used its general manager's home as an office and a hotel as a warehouse. (See deposition of Palmer General Manager William T. Conroy, June 13, 1978, pp. 17–18, 97, 221.)

C. The Divestiture

1. Physical Assets.—The proposed Final Judgement requires ARA to divest Molasky distribution facilities, vehicles, racks and other physical equipment. One of the commentors has an objection to even this aspect of the settlement. Egypt (Comment at 7) claims that the United States " will probably be doing ARA a service * * * since [the warehouse's] size, opulence and expense probably do nothing but hurt ARA by its continued use." Egypt also seems to object to the requirement of divestiture of former Molasky trucks. Egypt thus to be saying to be saying that the United States should force ARA to keep assets which were unlawfully acquired. Because these assets were unlawfully acquired in violation of the F.T.C. Order they must be divested as stated in the proposed Judgment regardless of the competitive impact resulting from this aspect of the acquisitions.

2. The Molasky Volume Obtained by ARA.—Principally, those commenting on the proposed Judgment complain about the amount of divestiture of retail sales volume. It is important to note that the decree will not permit ARA to acquire any retail business or physical assets which ARA does not already have. Rather the Judgment merely allows ARA to keep, or forces it to divest, that which it presently has.

Several commentors argue that the United States miscalculated the amount of annual retail sales volume which ARA began to service after Molasky's demise [sales volume].

We continue to recognize (as previously stated in the Competitive Impact Statement, p. 10) that calculating with precision the sales volume is probably not possible. The United States is of the view that its calculations are reasonable and that, furthermore, several assumptions employed by Palmer and its accounting firm make their calculations faulty and unresponsive to the issues at hand.

Mize, Palmer's accountants, uses as a base figure ARA's net billings for January–May, 1976. However, the billings for these months, as indicated in the documents reviewed and considered by the Department of Justice, are lower than for June, 1976—even through June, 1976, was before the unlawful acquisitions. The United States picked June, 1976 as the base month for computing ARA's sales volume prior to the acquisitions since it was the last month prior to the second of 1976—the period when the unlawful acquisitions began. Thus Mize's calculations fail to give ARA credit for new accounts it began to service in the January–May, 1976 period prior to, and unrelated to, the unlawful acquisitions.

The calculations submitted by Mize also as a base figure ARA's net billings for the first 5 months of 1977. Yet this presumes that volume which ARA began to service in February, March, April and May of 1977 came from the unlawful acquisitions. Mize's assumption fails to consider that the increased sales may have resulted from factors unrelated to ARA's unlawful acquisitions such as servicing of accounts dissatisfied with service of an ARA competitor. An example is the Time-Saver account, a large drug store chain which shifted from Bayou to ARA in February, 1977 for reasons apparently unrelated to ARA's unlawful acquisitions.

For the same reasons, Palmer's use (Comment Attachment D) of sales figures for January–May, 1976, and February–December, 1977, make its calculations unreliable.

In contrast, the United States used the months of January, 1977, and June, 1976, as the base months and after subtracting returns, multiplied the difference by twelve to reach ARA's annualized sales volume increase resulting from Molasky's demise. We used the month of June, 1976, because any ARA sales volume in this month came to ARA immediately before and unrelated to the unlawful acquisitions. While the complaint is broad enough to require divestiture of accounts which ARA began to service after January, 1977, we used he month of January, 1977, as the determinative month for calculating the sales volume ARA had after the acquisition. The testimony given in this case led us to conclude that ARA could prove that its unlawful acts (other than holding previously unlawfully acquired business) had generally ended by the end of January, 1977. See the testimony of Robert A. Austin of Egypt on July 10, 1978 (Deposition at 380–381):

Q. Do you believe the agreement between ARA and the Molaskys * * * had the effect of foreclosing other wholesale distributors, and in particular Egypt News, from competing in St. Louis.

A. The agreement as such stopped it, period.

Q. It stopped your ability to compete in St Louis?

A. Temporarily, yes.

Q. How long did it stop it * * *.?

A. For at least eight weeks.

Q. Did it stop you beyond that eight week period?

A. No.

Thus the United States properly did not consider volume which went to ARA more than eight weeks after December 7, 1976.

Palmer (Comment at 11) also disputes the "return rate" used in the formula for calculating ARA's sales volume obtained from Molasky. In this industry, wholesalers give a credit to retail customers for periodicals delivered to the retailer which the retailer is unable to sell to consumers. Thus, the measure of a wholesaler's growth is the charges to a retailer for periodicals delivered less the returned copies transferred back to the wholesaler (for which the wholesaler receives a credit from the suppliers). The United States accepted ARA's representation that the return rate for January, 1977, was skewed for reasons unrelated to the unlawful acts cited by the government in this case—namely that retailers did not know what to do with periodicals previously distributed by Molasky, which they were seeking to return to ARA. We found that regardless of the accuracy of Palmer's claim that the low return rate for January, 1977, was due to "the flood of new business and customers to ARA," we were justified in using the return rate for annual, 1977, rather than January, 1977, to avoid penalizing ARA for return conditions which apparently did not relate to ARA's unlawful conduct.

Palmer also complains (Comment at 12) that the United States did not compare ARA's increase in sales volume to ARA units in other geographical areas. No relevant purpose would be served by comparing ARA sales in areas where no acquisitions occurred to the ARA units in Kansas City, New Orleans and St. Louis.

Palmer also challenges (Comment at 8) the government's use of three pages of billing tabulations for ARA's New Orleans, St. Louis and Kansas City units in 1976 and 1977. Palmer contends that this tabulation is not authenticated by an affidavit of Borah Perlmutter, ARA's Chief Financial Officer for its periodicals division. Palmer is in error. Mr. Perlmutter states in the affidavit that financial statements relating to operations for ARA's wholesaling operations produced to the government in the course of discovery and settlement negotiations were produced by him or persons working under his control from records kept by ARA in the ordinary course of regularly conducted business. While Mr. Perlmutter's affidavit (Exhibit B to Palmer's Comment) does not specifically refer to the three pages of billing data which the government considered to be "determinative documents," ARA's counsel, by letter dated June 20, 1979, confirmed that the reference in Mr. Perlmutter's affidavit to the accuracy of financial documents includes these pages.

3. The Divestiture "Credit".—The proposed Final Judgment permits ARA to count against the $5.2 million divestiture required by the decree retail business lost by ARA (which was previously Molasky's) before entry of the Final Judgment. Both Palmer and Egypt object, claiming that this credit does not foster competition and in effect penalizes ARA's competitors for successfully taking retail business from ARA. The objections again lack merit.

To emphasize again, the United States' goal in seeking equitable relief is to return the marketplace in the three relevant cities to what it would have been *but for* ARA's violations. Thus, in those situations where ARA "acquired" retail business because of its unlawful acts and subsequently lost the account, then the marketplace has in effect taken away ARA's advantage as to that account since by definition ARA no longer is serving the account. ARA would, however, be penalized if we required it to divest 35% of the former Molasky volume on top of Molasky accounts which either other competitors took away from ARA or which no longer receive periodicals for reasons which are unrelated to ARA's violations of Paragraphs V(3) and VI of the F.T.C.'s Order.

Palmer contends (Comment at 14) that the United States should not have annualized ARA's sales for determining the divestiture required, as to the retail accounts which ARA did not service for a whole year. For uniformity purposes, all retail account sales were "annualized". As to those accounts which ARA serviced for only a brief period of time, such as the account cited by Palmer (*Id.*) the short period which ARA serviced the account only highlights the United States' conclusion that some of the effects of the Molasky acquisition were short-lived.

Palmer (Comment at 16) also believes that ARA should not get credit for retail business it lost in the months immediately prior to the filing of the proposed consent decree. If ARA divested accounts in anticipation of a settlement which was not finalized until March, 1979, then it should be entitled to count this divestiture against its obligations under the Final Judgment. Again we note that the key point in our relief is to return the marketplace to what it would have been but for ARA's violations. Distinguishing between accounts divested before and immediately after the judgment just is not germane to the question at hand. Nevertheless, in accepting the proposed Judgment, the United States relied on ARA's oral representation that it had "lost" (already divested) $2 million in sales volume as of September 30, 1978. However, because the proposed Final Judgment did not explicitly reflect this representation, the United States will recommend that the Court modify the proposed Judgment accordingly.

Palmer argues that the "credit" formula will "promote hardships for customers, for consumers and for competitive wholesales in the event they are requested (or commanded) to service customers discontinued by ARA." We do not understand how either a consumer or a retail customer is hurt when a competitor of ARA continues to service an account previously lost by ARA to a competing wholesaler. The retailer merely continues getting the same service from the same wholesaler after entry of the decree which the wholesaler had provided before the decree. Also, we find Palmer's argument that the credit will force Palmer and other ARA competitors to service customers who are discontinued by ARA, to be self-defeating. If Palmer is contending that the decree is unfair in that it, Palmer, will *have* to service customers as a result, then it is suggesting that the United States should not force ARA to divest any retail business. Surely, that is not a remedy which Palmer seriously wants.

Palmer also complains that ARA should not be permitted to count as part of the divested business those accounts which are lost for reasons other than "the normal competitive process" (Comment at 16). While it is true that ARA may stop servicing accounts for other reasons, such as the closing of a store, we see no legitimate reason why ARA should not be able to count as part of its divestiture those accounts which were lost for other reasons than the competitive process. For instance, if a store closes, thereby leaving ARA with one less customer, then the market place has accomplished, in part, what the decree seeks—to return ARA to the sales volume which it would have had but for the unlawful acquisitions. Nor is this unfair to retailers. ARA will have no greater right to cease doing business with smaller retailers than it has absent this Judgment.

4. Other Objections.—Both Bayou (Comment at 2) and Egypt (Comment at 11) object to the proposed Judgment's definition of "chain retailer" as a retailer with three or more outlets. In particular, Egypt contends some chains in the St. Louis area have numerous (presumably more than three) outlets. Eypt seems to have misunderstood the definition which recognizes that a chain retailer may in fact have more than three outlets. While this definition is not intended to create a standard in the industry as to what a chain retailer is, the United States feels that the definition accomplishes the intended result—forcing ARA to divest almost 50% of the divested business from other than "mom and pop" stores which provide in many instances minimal, if any, profit for the wholesalers.

Bayou contends that this definition of "chain retailer" will not force ARA to divest any of the business it has with three major supermarket chains in New Orleans. Bayou is correct. However, its observation begs the question at hand since we did not find that these chains employed ARA as a wholesaler due to the acts which constituted ARA's violations of the F.T.C.'s Order. Thus we see no reason why ARA should be required to divest this business, regardless of the accounts' profitability. Additionally, Bayou fails to note that ARA did not obtain all the major supermarket business in New Orleans as, for instance, Bayou was able to convince A & P, another large supermarket, to receive service from it at that time. Similarly, both

Egypt and Palmer successfully convinced important and lucrative chain retailers to accept service in 1976.

The parties have also agreed to slightly change Section V(A)(ii) of the decree to reflect that ARA must divest slightly more business in St. Louis and Kansas City than in New Orleans due to the comparatively larger business ARA obtained in the former two cities. Thus, ARA will now be required to divest at least $1.1 million in sales in St. Louis and Kansas City and $800,000 in New Orleans. The amount of overall divestiture is unchanged.

Egypt (Comment at 12) states that the definition of a "chain" somehow sets up a system where one wholesaler will be servicing one branch store and another wholesaler will be servicing other branches of the chain. While we found that such a system is hardly unprecedented in the three markets, the Judgment does not force any increase in the practice. If ARA divests several branches of a chain, the chain will be free to let the wholesaler who commences service in the "divested" branches service all the chain's branches.

5. Comment of Independent News.—Independent complains that the United States has assumed that any sale [if there is any] by ARA pursuant to the proposed Final Judgment will be satisfactory to suppliers like Independent. We made no such assumption; nor does the decree so reflect that we have. We have intentionally given ARA as much freedom as we could to make the divestiture required by the decree. Thus we have not required that the divestiture be made to a particular person, or under particular terms. Rather, we hope that the forces of the marketplace will control the divestiture to the extent possible. However, under the decree the United States has retained the right to disapprove a proposed sale.

We have not stated that the sale is subject to the approval of ARA's suppliers, since we also see no legitimate purpose for such a provision in the decree. If ARA sells any of its business to another wholesaler, the suppliers will have the same legal rights they have in any situation where a wholesaler sells part or all of its business, to decide whether to do business with the acquiring firm. Thus, while the decree in no way gives suppliers a veto over a sale by ARA, it also does not decrease their rights, whatever they may be, to object to such a sale.

The freedom which we have intentionally extended to ARA in making the divestiture required by the decree explains in part why we have not required a "plan of divestiture" as such (See Egypt Comment at 12). The United States has built into the decree enough safeguards, *i.e.*, mandatory divestiture of chain store business, and accounts in all three markets, that a more formal plan by ARA was deemed unnecessary in this case, which is being settled.

D. Challenge to the Penalty

Both Palmer (Comment at 20) and Egypt (Comment at 12) complain that the civil penalty assessed is inadequate. The United States believes, however, that the civil penalty assessment of at least $300,000, representing the second highest penalty in any settlement involving the Federal Trade Commission, is not subject to challenge by either Palmer or Egypt in this proceeding.

Unlike the normal civil antitrust case where the United States seeks merely equitable relief, this case also involved a prayer for a civil penalty under 15 U.S.C. 21(1). While we did as an informational matter set forth in the Competitive Impact Statement the judicial standards used in assessing civil penalties, we do not believe that under the A.P.P.A. the penalty aspect of this case is open to public objection.

The civil penalty, unlike the equitable relief sought, is purely a law enforcement matter. Our review of the legislative history indicates no Congressional intent that it wanted civil penalties to be subject to public comment and objection. While the equitable relief part of this case is properly subject to objection under the A.P.P.A., the civil penalty is not.

Respectfully submitted.

John R. Fleder,

Consumer Affairs Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

Certificate of Service

I hereby certify that on July 6, 1979, a copy of the foregoing Response of United States to Comments Relating to Proposed Final Judgment Against Defendant was served by mailing, postage prepaid, to:

James S. Campbell, Esquire, Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006.

Trammel Vickery, Esquire, Hansel, Post, Brandon & Dorsey, 3300 First National Bank Tower, Atlanta, Georgia 30303.

Daniel R. O'Neill, Esquire, Bryan, Cave, McPheeters & McRoberts, 500 North Broadway, St. Louis, Missouri 63102.

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William R. D'Armond, Esquire, Sanders, Downing, Kean & Cazedessus, Baton Rouge Savings & Loan Building, Post Office Box 1588, Baton Rouge, Louisiana 70821.

Robert M. Mehlinger, C.P.A., Mize, Houser, Mehlinger & Kimes, No. 1 Townsite Plaza, Topeka, Kansas 66603.

Frank Herrera, President, Independent News Co., Inc., New York, New York.

John R. Fleder.

U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION

United States of America, Plaintiff, v. *ARA Services, Inc.*, Defendant.

Civil Action No. 77–1165–C(1).

Comments of Palmer News, Inc., Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 6

Introduction

The following comments regarding the settlement of this action against ARA Services, Inc. ("ARA"), as proposed by the Department of Justice (and opposed by the Federal Trade Commission), are submitted on behalf of Palmer News, Inc.[1] pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16. Supplemental comments referring to internal ARA documents presently claimed to be confidential by ARA will be filed with the Court "under seal."

As demonstrated herein, the relief described in the proposed settlement and Final Judgement in this action is inadequate to accomplish the objectives of the Complaint, so narrow in scope as to be wholly unlikely to enchance competition in the publications wholesaling business in the affected areas, and, if ratified, will serve only to secure and legitimize a monopoly position for ARA in three major cities—a position unlawfully obtained in violation of its existing Consent Decree, entered March 8, 1973 *In the Matter of ARA Services, Inc.*, (82 FTC 753). Moreover, it would further entrench ARA's dominant position as (by far) the nation's single largest wholesaling operation, to the further detriment of competition in that industry. The settlement would not be in the public interest.

After a brief background statement, these comments address the following aspects of the proposed settlement:

(1) the annual dollar volume actually acquired by ARA in Kansas City, St. Louis and New Orleans,

(2) the amount and effect of the proposed divestiture,

(3) the penalty provisions,

(4) certain assumptions of fact underlying the rationale of the Competitive Impact Statement including the competitive effect of ARA's predatory conduct,

(5) other factors bearing upon the public interest.

Background Statement

ARA Services, Inc. is a $2 billion[2] corporation engaged, *inter alia*, in the vending machine, food services, nursing home, construction, newsstand and publications wholesaling businesses. It entered the latter business in 1968, expanding through a program of rapid acquisitions of existing wholesalers to become the nation's largest wholesaler by 1971. In 1971 the Federal Trade Commission began an investigation of ARA. On March 8, 1973, the FTC filed a complaint against ARA charging that it had violated Section 7 of the Clayton

[1] Palmer News is a wholesaler of periodicals and paperback books headquartered in Topeka, Kansas, which also does business in Kansas City. It is one of four related companies that are plaintiffs in an antitrust action commenced against ARA and others in federal court in Kansas in December 1975.

[2] According to its latest quarterly statement, ARA's revenues are in excess of $2 billion on an annualized basis. Gross revenues as of September 29, 1978, at the close of ARA's last fiscal year, as reported in its 1978 Annual Report, were $1.7 billion, up from $648 million in 1970.

Act, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by virtue of its wholesaler acquisitions throughout the country between 1968 and 1971.

The Concerns Addressed by the FTC.

The competitive effects of ARA's unlawful acquisitions were expressed in the FTC's complaint as follows:

"(a) ARA has obtained or may obtain substantial economic power over publishers and national distributors and over the sale of periodicals and paperbacks by them.

(b) ARA has obtained or may obtain decisive economic power in the various geographic markets in which it operates over actual or potential competing wholesalers of periodicals and paperbacks.

(c) ARA has or may have further entrenched the economic power of acquired firms in the various geographic markets in which they operated and has or may have enhanced and increased barriers to entry in local geographic markets in which ARA operates wholesale periodical and paperback businesses.

(d) The emergence of new competition generally in ARA markets has been or may be inhibited or restrained.

(e) Potential competition between ARA and the acquired companies, and among the acquired companies, has been eliminated."

By virtue of the unlawful acquisitions, according to the FTC complaint, ARA had increased its national market share from 9.4% in 1969 to 16% in 1971.

The Requirements of the Consent Decree.

Simultaneously with the filing of the complaint, a consent order was filed and subsequently entered which: required ARA to divest certain acquired wholesaling operations; required ARA to divest portions of other wholesaling operations; enjoined ARA from attempting to influence publishers or national distributors to refrain from doing business with ARA's competitors; prohibited for ten years ARA's acquisition—*directly or indirectly*—of any periodical wholesaling business operating in a service area *coextensive with or adjacent to* an area in which ARA was already doing business, unless prior FTC approval was obtained; and prohibited ARA's acquisition of any wholesaler for ten years without prior FTC approval unless ARA previously divested a wholesaling operation of equivalent size.

The provisions of that order must be construed broadly so that its intended purposes are effectuated. *Temp Music, Inc.* v. *Meyers*, 407 F.2d 503, 507 n. 7 (4th Cir. 1969); *United States* v. *Los Angeles Meat & Provisions Drivers Union*, 196 F. Supp. 12 (S. D. Cal. 1961), *aff'd*, 371 U.S. 94 (1962). *See also Anaconda Co.* v. *Crane Co.*, 411 F. Supp. 1210 (S.D.N.Y. 1975).

The unmistakable intent of the Consent Decree was that, among other things, ARA would not acquire or assume *en masse* any wholesaling operation, and most certainly any such operation co-extensive with or adjacent to one of its own. Any such takeover of another wholesaling operation could only effectively result in the further elimination of competition and the further increase of ARA's economic power.

ARA's Continuing Expansion.

Despite the prohibition against any *one* acquisition, ARA acquired at least *three* Molasky operations, *all co-extensive with or adjacent to* its own operations. And, despite the existing consent order and the prior divestitures, ARA's national market share has increased from 16 percent to approximately 19 percent.[3] This increase has occurred notwithstanding the fact that the industry dollar volume has more than doubled during the same period. Significantly, the number of independently owned wholesaling operations simultaneously *decreased* from approximately 550 to 325 in 1977.[4] One expert projects that by 1983, over 50 percent of wholesaler volume will be concentrated in less than 10 percent of the wholesaling agencies with ARA, the leader, doing approximately $350 million annually.[5]

The proposed Final Judgment, requiring ARA to "divest" only $5.2 million in annual sales volume, would reduce ARA's national market share, all other things being equal, by *less* than *one-half* of one percent.[6] It would approve ARA's continued growth, its acquisition and retention of additional wholesale operations, and the further expansion of its economic power. Unless checked, the additional economic power attained by the nation's largest wholesaler as a result of the Molasky acquisitions may well prove fatal for those wholesalers competing with ARA.

These comments, together with the Supplemental Comments, will demonstrate that the rationale for the proposed settlement is not consistent with or supported by the facts, and that the settlement itself is anti-competitive and contrary to the public interest. Accordingly, it should not be approved by the Court.

The Proposed Final Judgment

1. *The Annual Volume Acquired by ARA.*— According to the Competitive Impact Statement, the only materials considered determinative in formulating the relief portions of the proposed judgment were materials from which the Department of Justive computed the dollar volume of business which moved from Molasky to ARA in 1976. Those documents consist of a three page tabulation entitled "Analysis of Return Rates", together with a two-page affidavit of Borah M. Perlmutter sworn to March 8, 1979. Copies are attached hereto as Exhibits A and B, respectively, in the form obtained from the Department of Justice. Attached as Exhibit C is a copy of the same three-page tabulation, together with a cover memorandum, in the form produced by the Federal Trade Commission pursuant to a Freedom of Information Act request (the FTC's version includes additional data for the year 1978 which apparently was excised from the materials made available by the Department of Justice).

The Determinative Document Is Unreliable and Does Not Support the Basic Conclusion as to the Volume Acquired.

As indicated by these exhibits, the three-page tabulation was in fact submitted to the government by ARA in connection with a settlement discussion in September 1978. It is not referred to, authenticated or otherwise addressed by the Perlmutter affidavit. Hence, the three-page tabulation, upon which the terms of the entire settlement is premised, stands as an inherently unreliable, self-serving, unaudited, unverified submission, wholly unrelated to the Perlmutter affidavit.

In addition, the numbers are strikingly curious. The tabulation reflects on its face that the numbers for virtually the entire relevant period (October 1976 through November-December 1977) are either rounded off or are approximations (net billings appear approximated to the nearest *thousand*). For example, the tabulation covering New Orleans reflects identical net billings of $421,000 for the months of December 1976 and January 1977. Although gross billings and returns are substantially different for those months, in each case the figures end in precisely the same last three digits (the same is true for other months).

Putting aside the obvious unreliability of the tabulation, it is clear that it does not support the "agreement" that ARA acquired some $15,000,000 in annual volume.[7] By any reasonable construction, the tabulation reflects the acquisition by ARA of approximately $18,000,000 in annual volume (without any adjustment for inflation), or some 20% more than the figure agreed to by the parties and utilized as the basic premise of the entire settlement. That correct amount may be determined in a number of ways, as follows.

First, the complaint and the recitation of facts in the Competitive Impact Statement refer to a series of transactions in December 1976 that constitute the unlawful acquisition. In fact, the negotiations between Molasky and ARA leading up to the acquisition began, according to ARA's answers to interrogatories, "on or shortly before October

[3] Based upon ARA's March 1979 press release citing gross sales of $225 million for the Periodicals Distribution Group in fiscal 1978, and an estimated total national gross sale by wholesalers of $1,195 million (computed on the basis of the FTC's 1971 sales figure of $500 million and annual percentage increases compiled by the Council for Periodicals Distributors Association).

[4] "The Role of The Small Wholesaler", by Mel Greenwald, *CPDA News*, November 1977, p. 53.

[5] "Periodical Distribution: Five Years Later, Part Two" by David H. Moscow, *CPDA News*, December 1978, p. 34.

[6] Given the various exceptions and allowances provided for in the proposed Judgment, it is estimated that ARA will actually be required to divest less than $3 million of business. The reduction in market share would thus be virtually meaningless.

[7] This extraordinary "agreement" on a key aspect of the violation must be inferred from the provisions of Section V (A) of the Final Judgment where it states that the parties "agreed" that $5.2 million represents 35% of the sales volume acquired by ARA. Although the language employed might suggest that the volume acquired was more on the on the order of $12.5 million (prior to adjustment for inflation), we have been informally advised that the amount was estimated at $15 million for purposes of the settlement.

21, 1976", continued with a draft of a letter of intent in November, and culminated with the execution of a letter agreement on December 7, following the formal shutdown of the three Molasky agencies on December 3.[8] While some business apparently moved from the Molasky operations to ARA in November or before, it is clear that the acquisition as such occurred in the first week of December 1976. A comparison of the gross and net billings reflected on Exhibit A for the months of November and December 1976 clearly demonstrate that fact.

With those facts conceded, one must then compare ARA's annual volume prior to December 1976 with its annual volume subsequent to December 1976 in order to arrive at the annual volume of business obtained by ARA as a result of its unlawful conduct. Attached hereto as Exhibit D is an analysis relfecting that the difference approximates $18,000,000. (As noted on that exhibit, the month of December 1976 is included at a figure representing the average of the prior eleven months in order to avoid including the volume obtained by ARA's unlawful conduct.) Other ways of demonstrating that the amount of volume actually acquired was in excess of $18 million are explained in a letter from Mize, Houser, Mehlinger and Kimes, Certified Public Accountants, to the Department of Justice, dated May 21, 1979.

Other Errors In the Analysis

Another erroneous aspect of the computation of the business acquired by ARA, as explained in the Impact Statement (at page 6), lies in the significance afforded the lower return rate shown on Exhibit A for the month of January 1977. It appears that a higher average return rate was substituted when making the computation, thus reducing ARA's net billings below the amount actually shown for January 1977 to further minimize (in appearance only) the extent of the volume acquired. However, it is clear that as a result of the flood of new business and customers to ARA, it would be expected that the return rates would be lower in the month of January because of the delivery of the available volume of publications to more customers.[9] Accordingly, the effect of the adjustment was to understate ARA's net billings for the first month after the acquisition, an error which was then compounded in the calculation used to estimate the annual volume acquired.

Finally, apparently no effort whatsoever was made to compare the monthly or annual increase in gross or net sales of the ARA units in New Orleans, St. Louis and Kansas City with other ARA units operating under normal circumstances. Such a comparison of the performance of a normal operation with the concededly abnormal operations presumable would reflect the extent to which the three ARA units were directly benefited by the acquisition of the former Molasky business, *i.e.*, it would reveal the disproportionate growth in those operations.

2. *The amount and effect of the divestiture required by the proposed Final Judgment.*— As noted above, the settlement proceeds from a premise that only 35% of the annual volume acquired from Molasky should be divested, stating in Section V of the proposed Final Judgment that such amount equals $5.2 million. Although not explicitly stated, the $5.2 million is presumably based upon an assumption that approximately $15 million in total annual volume of sales was acquired by ARA. In fact, as indicated above, the dollar volume acquired was on the order of $18 million. Accordingly, without further analysis, the amount required to be divested should be at least $6.3 million rather than $5.2 million.

Next, the proposed Final Judgment provides for a complicated formula under which ARA may receive certain credits in reduction of that divestiture requirement for business which it purportedly gained during a six month period and subsequently lost or discontinued. By letter of April 2, 1979, we requested the Department of Justice to furnish information to us that would reflect the amount of that credit. A copy of that letter is attached as Exhibit D. No formal response has been received. We understand that such information is not available to the Department of Justice although it believes that the amount of the credit might be as much as $2.2 million.

If the Department's belief proves to be correct, the actual divestiture to be made by ARA over the next year would be some $3 million in annual volume presumably to be divided equally between the three cities. If that were to be the case, in no instance would there be sufficient volume to attract a new wholesaler. In the words of the Competitve Impact Statement, there would be no "business package attractive to a competitor."[10]

The formula allowing ARA a credit against the divestiture requirement, as we pointed out in our letter of April 2, 1979, would also result in ARA receiving credit for hypothetical lost business rather than any actual dollar volume ever serviced by ARA. Thus, if ARA serviced a former Molasky account for one week prior to December 6, 1976 and therafter lost that customer to competition, or voluntarily discontinued service, it would receive a credit against the divestiture requirement of 52 times the volume of business that it actually did with the customer.

This is no hypothetical or speculative possibility. In fact, Palmer News successfully solicited in early December 1976 a former Molasky customer known as the United Supers chain. However, because Palmer did not have the former Molasky allotments (as did ARA) and did not otherwise have a sufficient volume of publications available to immediately commence service, United Supers continued to receive its publications from ARA until January 1977. Because the customer was "serviced" for approximately one month by ARA, ARA would now receive credit against its divestiture of 12 times the volume of business it actually did with the customer—notwithstanding that such business was concededly unlawfully obtained and only temporarily retained.

In addition to situations such as that represented by the United Supers example, ARA has since December 6, 1976 lost business to competitors through the ordinary competitive process. There is no conceivable antitrust rationale for granting ARA a credit against a divestiture requirement for business lost in the normal competitive process. By what equitable principle should ARA benefit from its loss of accounts to other wholesalers who through legitimate competitive efforts had to overcome the unlawful advantage which allowed ARA to obtain the accounts in the first place? The proposed credit thus renders meaningless—indeed, effectively penalizes—the hard work and efficiency of other wholesalers. Such a credit does not restore the status quo or return the market to what it would have been but for the unlawful conduct. Indeed, it smacks of a governmental approval and subsidization of ARA's activities, particularly when ARA is permitted to retain the vast majority of the business (including the important chain store accounts) which, even under the Antitrust Division's view, was unlawfully obtained in part.

In addition to business lost through the normal competitive process, ARA will also be granted a credit for business that it has voluntarily discontinued servicing since December 6, 1976 (including that to be dropped in the coming year). As indicated below, ARA has already eliminated a substantial volume of business, presumably because it proved unprofitable to service, while continuing at the same time to service the more profitable chain store business acquired from the Molaskys. There is substantial evidence that this practice will continue and that, in fact, whatever the future divestiture requirement turns out to be, it will be the smaller, more rural and marginally profitable customers whose service will be eliminated.

As an example, apparently during the pendency of the Antitrust Division's consideration of this matter, but clearly subsequent to preliminary agreement on the principles to govern any divestiture,[11] ARA has both eliminated service to small or marginally profitable customers and has reduced service to others. Where service was reduced, there was no corresponding price reduction to the customers. Thus, ARA's action was equivalent to a price increase to those customers—a practice characteristically adopted by unlawful monopolists once their competition has been eliminated.

[8] Fourth Supplemental Answers of Defendants' ARA Services, Inc., to Plaintiff's First Interrogatories, filed December 1, 1978, at paras. A2–C5.

[9] It should also be noted that in subsequently forwarding returns to the national distributors, ARA accounted for Molasky-APS returns separately, receiving a credit equal to the amount credited by it to the former Molasky and APS customers. Thus, there was no adverse effect to ARA from any increase in returns.

[10] Competitive Impact Statement at para. 6, p. 15. Indeed, ARA's counsel has observed that no wholesaler "not currently active" in the three cities would be willing to enter those markets under even more advantageous conditions, concluding that "divestiture cannot attract new competitors." Letter from James S. Campbell to Charles R. McConachie, dated August 5, 1977.

[11] The letter from Chairman Pertchuk to Mr. Shenefield, dated March 23, 1979, indicates that the concept of this settlement was proposed by the Antitrust Division to the FTC, and disapproved by the latter, as early as July, 1978.

Exhibits E and F are attached as evidence of these practices. Exhibit E is a two-page list of retail dealers entitled "Kansas City Edition", provided by a representative of Triangle Publications (the publisher of TV Guide) to Palmer in the Fall of 1978. Palmer was advised at that time that ARA had eliminated service to the customers on the list. Palmer was requested to assume service to the customers notwithstanding that many of them were not in the vicinity of any of Palmer's truck runs. Palmer assumed service to some; some were serviced by other wholesalers and, presumably, some were not serviced at all.

Exhibit F is a form letter sent by ARA's Kansas City Division to a number of its customers on November 13, 1978. As it reflects, ARA discontinued "in-store" service to the customers. It did *not*, however, grant any corresponding price reduction to the customers.[12] Where such classically monopolistic behavior encouraged the customers to seek, and they were able to obtain, an alternative source of supply, ARA will be rewarded by receiving a credit for the business lost in reduction of its divestiture requirement. Such a result is clearly contrary to the intention of the Antitrust Division.

As suggested by the foregoing, ARA has indicated an intention to eliminate service to other smaller customers (further evidence bearing on this point is described in Palmer's Supplemental Comments filed with the Court under seal). The result of ARA's conduct, encouraged by the proposed Final Judgment, will be that ARA will retain as customers the large chain stores—the foundation of any profitable wholesaling business—while at the same time discontinuing service to the smaller, less profitable accounts.

The credit formulation would clearly promote hardship for customers, for consumers and for competitive wholesalers in the event they are requested (or commanded) to service customers discontinued by ARA and do so in order to maintain relations with their suppliers. In short, it is clearly anticompetitive and against the public interest.

Finally, the Antitrust Division's analysis bearing on this point overlooks two significant facts. In suggesting that ony 35% of the customers or volume moved to ARA because of the acquisition, the analysis ignores the fact that ARA had been active in Kansas City for four years and in the other two cities for two years *without obtaining* the business of the customers that it ultimately acquired. It was only when the events transpired that represented the unlawful acts of acquisition, and ARA appeared to be the lawful successor to Molasky, that ARA obtained the business. The second and related point is that such business did, indeed, move to ARA because of its appearance as the successor to Molasky. For example, the important Safeway chain in Kansas City, which *was committed to move to Palmer News* (Palmer had been advised that the change of service would occur upon the termination of the Molasky-APS operations and, in anticipation of that event, had been provided with allotment information for TV Guide), in fact commenced business with ARA as part of its *en masse* takeover of the Molasky business.

The foregoing suggests an obvious solution, and that is to eliminate any credit to ARA against the divestiture amount finally determined to be appropriate. As reflected by ARA's net billings for 1977 and the first five months of 1978, as recorded in Exhibit C, ARA more than tripled its net sales as a result of the acquisition and has succeeded in maintaining that volume. In light of that increase, divestiture should be significantly more than $6.3 million and there should be no reduction by way of a credit.

3. *The penalty provisions apart from divestiture.*—In assessing a penalty of only $300,000, the Antitrust Division observes in the Competitive Impact Statement (at page 8) that the applicable criteria are the defendant's good or bad faith, the injury to the public, the defendant's ability to pay and the objective of eliminating any financial benefits derived by the defendant from the violations. In this case, it is respectfully submitted that ARA qualifies on all counts for the most severe penalty possible. Indeed, the likelihood of a sufficient cash penalty is remote and only further divestiture would seem appropriate.

ARA has repeatedly asserted its good faith, alleging that it always intended to seek approval of the Federal Trade Commission, as required by the Consent Decree, prior to consummation of the transaction. However, notwithstanding the fact that ARA entered into negotiations to acquire Molasky's assets (and, obviously, ultimately its business) in October 1976, no notice was then provided to the FTC. Similarly, no notice was provided when the letter of intent was drafted in November or even prior to the execution of the letter agreement *following* consummation of the *en masse* takeover in December. Indeed, we are advised that the FTC knew nothing of the transactions prior to the point when ARA actually entered into possession of the former Molasky premises and began servicing the former Molasky customers. One cannot find good faith in the face of those facts, particularly when the 1973 Consent Decree required *60 days* advance notice of acquisitions *not* prohibited by the Decree or requiring FTC approval.

Notwithstanding ARA's protestations that the transactions at best represented a technical infraction of the 1973 Decree, it is clear that ARA did not in good faith consult with the FTC in advance of the action taken. The exercise of good faith would have required early advice to the Commission, at least in October when serious negotiations began. (Exhibits to be submitted to the Court under seal also bear on this point and further suggest an absence of good faith.)

Turning to the magnitude of the acquisition and its attendant financial benefits to ARA, it must be noted that the acquisition was on the order of 18 times the size of the acquisition in the *Beatrice Foods* case, cited in the Impact Statement at page 14, without even counting the substantial additional increase in annual volume in the three cities indicated by ARA's 1978 financials. Moreover, a $300,000 penalty would merely offset the $300,000 profit realized by ARA on its prior divestiture under the 1973 Decree (ARA Annual Report for 1975 at page 23, note 4). The penalty should be substantially larger.

In considering the financial benefits derived by ARA from the acquisition, it is noteworthy that other prospective buyers expressed a willingness to purchase the operations from Molasky in the same time period for amounts ranging from in excess of $3.3 million to $13 million. (See letter from the firm of Popkin & Chervitz, attorneys for the Molasky operation, to the Federal Trade Commission, dated March 4, 1977, attached hereto as Exhibit G.) That is the measure of the value and benefit of the transaction to ARA. (See also the Minutes of the ARA Board of Directors, dated November 19, 1976, submitted to the Court under seal.)

Finally, there can be no question of ARA's ability to pay in this case. In view of the evidence represented by the exhibits to be submitted to the Court under seal and the Supplemental Comments included therewith, it is respectfully submitted that a penalty in the amount of $3.5 million should be assessed. Even at that amount, the penalty will be substantially less than the amount which buyers would have been willing to pay for the business at the time, had circumstances permitted the consummation of such a sale. Alternatively, substantial further divestiture should be required to reduce the amount of the benefit to ARA and, correspondingly, to encourage competition or to create "business package" more attractive to other wholesalers.

4. *The Antitrust Division's Analysis; ARA's predatory conduct and the competitive effect.*—The fundamental flaw in the Antitrust Division's analysis of the facts and the competitive impact of ARA's conduct proceeds from the assumption that the Molasky operations failed "on their own"—that is, other unlawful conduct by ARA did not materially contribute to (or cause) the failure. As posited by the Antitrust Division, the only issue is the extent of the business obtained by ARA through an unlawful acquisition, as distinguished from lawful competition. This narrow view and the misperception of the facts underlying it appear to result in substantial part from ARA's successful efforts to withhold certain documents from the Department of Justice prior to finalization of the proposed settlement.[13]

[12] Should there be any question that "in-store" service is considered part of price in this industry, Mr. Fishman, the Chairman of the Board of ARA, stated in a speech to his Periodicals Division executives on February 28, 1975: " 'Prices' for magazines and paperbacks mean not just the actual discount off the cover prices but any of the terms of sale: the service charge, *the amount of in-store service provided* . . . anything that is part of the total package of goods and services that you furnish to the retailers."

[13] Had the Department had certain documents, and the opportunity to conduct the examination of certain witnesses concerning ARA's activities in the Molasky operating areas throughout 1975 and 1976, it would have had a different perspective on the events leading up to the closing of the Molasky operations. Certain of those documents are the subject of Palmer's motion to the Court in this action. To the extent that they ultimately were

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The Department's recitation of the background facts leading up to Molasky's financial difficulties and ultimate elimination from competition, does not include two determinative facts:

One: For a period of years ARA had been operating at a loss in competition with Molasky.[14] ARA had been willing to operate on a loss upon the assumption that Molasky would not be able to sustain similar losses and ARA ultimately would survive as the only wholesaler in the three cities.

Two: Throughout 1975 and 1976, ARA applied pressure to the national distributors to effect the elimination of any price or other financial advantage (including credit) enjoyed by Molasky and, ultimately, in an effort to force the national distributors to suspend shipment of publications to the Molasky operations (commonly known in the industry as putting a wholesaler "on hold".) ARA's efforts in this respect were directly in violation of its 1973 Consent Decree, and clearly known to be so.[15]

In concluding on pages 10 and 11 of its impact statement that, absent its acts of acquisition, ARA would have picked up a minimum of 50 percent of the Molasky business anyway, and "would thus have been able to show that it did not *unlawfully* acquire" that business, clearly misses the point. Indeed, it begs the question. ARA's prior unlawful conduct had, in fact, brought about the conditions contributing to Molasky's failure.

Thus, but for ARA's continued and sustained operations at a loss in the Molasky marketing areas—conduct which is commonly regarded as predatory, and the pressure applied to the national distributors—conduct expressly prohibited by the consent decree, Molasky would not have been in such financial difficulty and would not have had to discontinue business. ARA then would not have had the opportunity to freely "pick up" 50 percent of the Molasky business, if, indeed, it could have done so in the absence of the acquisition as the Antitrust Division's analysis would suggest.[16]

In order to fully appreciate this point (and its portent for the future), it is necessary to consider ARA's strategy in competing with the Molasky operations (as well as other wholesalers). The fundamental premise of ARA's Periodicals Distribution Group is that only one wholesaler can economically service customers in a given geographic area. This principle was acknowledged by ARA in its submission of October 24, 1972 to the FTC:

"[T]oday natural economic forces are responsible for maintaining the condition of the single wholesaler. Given the limited size of the sales areas served in relation to the rising costs incurred by the wholesaler in meeting the demands of his suppliers and customers, today no more than one wholesaler can survive and make a profit in each area. Whenever two wholesalers attempt to serve a single area no stable competitive equilibrium can be achieved and one wholesaler is soon forced to withdraw."

Indeed, ARA specifically recognized that only ARA or Molasky, but not both, could survive head-to-head competition. ARA predicted:

"ARA has now committed to lease a warehouse as a base of operations in Kansas City itself, with the full realization that there cannot be two profitable operations in that area and that one of the two wholesaler operations will be forced to withdraw within a relatively short period of time." (*Id.*)

The failure of the Molasky operations and ARA's acquistion of their business cannot be viewed independent and apart from this clear expression of intent and the sustained operations at a loss which followed it. Similarly, the future potential for competition in the former Molasky cities must be viewed in light of the single-wholesaler concept *and* ARA's apparent willingness to endure losses in particular operations over a long period of time while it awaits the demise of its competitor.

The evidence is persuasive that only one wholesaler can economically service a given area. ARA's Chairman, William Fishman, recently affirmed his belief in that principle in deposition testimony in the *Palmer* litigation:

"Yes. Up until the early '70's, '73, '74, '75, in through that period, we were of the opinion that dual wholesaling operations for the most part, with exceptions, were contrary to the economics of the business and that this was a natural economic monopoly. Some time in that mid-'70 period, we decided to test the concept, to experiment with it, and therefore, we proceeded to enter certain markets on a dual basis. Subsequent to that, we came back—or at least I did. I can't speak for everybody in the company—but I came back and the position I now hold in this kind of business, for the most part is a natural economic monopoly." [Vol. III at p. 137, May 12, 1978]

In a recent article in the Antitrust Bulletin entitled "An Economic Evaluation of the Magazine Distribution Industry", by Russell P. Buchan and John J. Siegfried, the latter an Associate Professor of Economics at Vanderbilt University, the reasons why was stated as follows:

"Magazine distribution has the characteristics of a natural monopoly. The distribution problem is similar to the postal service, collecting message units from a few points and distributing them to many points. A magazine wholesaler's route truck incurs little extra cost by stopping to service additional outlets along the route. But a new competitor's route truck would incur all of the relatively fixed (insensitive to sales volume) costs of route establishment to service the outlet. Consequently one wholesaler can service a route at substantially less than the sum total cost of several wholesalers servicing the same route."

It is respectfully submitted that the actual competitive impact of the proposed settelement cannot be determined in complete disregard of this single-wholesaler, natural monopoly concept and its inevitable consequences. That is particularly so in light of ARA's recent efforts to persuade national distributors to adopt that principle by implementation of exclusive territorial franchising.[17] We do not believe that the Department of Justice has properly discharged its duties of considering the competitive impact of the proposed settlement until it gives full consideration to these facts *and* determines the impact on competition of the proposed settlement in light of the single-wholesaler principle. We are advised that this has not been done and that no related economic analysis has been made.

Proper consideration of the single-wholesaler, natural monopoly concept permits only the conclusion that ARA will likely eliminate the little competition it now has in Kansas City, St. Louis and New Orleans. On its face, the proposed settlement permits ARA to retain at least some two-thirds of the business acquired from Molasky. Given its dominant market share in each city, coupled with its position as the nation's largest wholesaler (a position derived as a result of the antitrust violations alleged in *FTC* v. *ARA*), there is no basis for concluding that competing wholesalers—such as Palmer in the Kansas City area—stand much of a change against ARA either in head-to-head competition or in obtaining exclusive distribution rights from national distributors.

If ARA is successful in promoting a program of exclusivity of service areas or territorial franchising, then the competitive effect of the proposed settlement would be plain and simple: the wholesaler with a dominant share of a given service area—namely, ARA in Kansas City, St. Louis and New Orleans—would likely become the chosen distributor in those areas.

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made available to the Department at Palmer's insistence, it must be noted that by that time the Department was wed to its present proposal and it had already been published in the **Federal Register**.

[14] Attached hereto as Exhibit H is a trial exhibit from the trial record of *S&S News Agency, Inc.* v. *ARA Services, Inc., and Mid-Continent News Agency, Inc.* United States District Court, Western District of Arkansas, Index No. FS-74-80-C. Other evidence bearing out this point has been submitted in connection with Palmer's Supplemental Comments, filed with the Court under seal.

[15] In his February 28, 1975 speech, ARA's Chairman of the Board stated, in part, that ARA should not seek to influence suppliers' prices to competitors or even mention any competitor by name in discussions with suppliers. In his words:

"Another part of the order that you should understand is the prohibition against attempting to influence our suppliers either directly or indirectly not to supply magazines or paperbacks to competitors or potential competiors. What can you do when some publisher thinks he can get a few more sales by supplying a secondary distributor or some jobber doing business in your area?

"Of course, you can't put any 'pressure' on the publisher or his national distributor to stop selling to the competitor. And what you also can't do is try to persuade him not to supply your competitor. Even talking to a publisher or his national distributor about a competitor may be characterized as an 'attempt to influence' in violation of the order."

[16] As Chairman Pertchuk pointed out in opposition to the settlement, it is not appropriate "to entertain any speculation as to what may or may not have happened if ARA had not pursued its plan of acquisition."

[17] Attached as Exhibit I are pages 556–570 from Volume IX of Mr. Fishman's deposition testimony, taken April 10, 1979. See in particular pages 556–557 and 562–564.

In the proposed settlement, the Department of Justice concluded that ARA would likely have obtained half the Molasky buiness irrespective of its violations. Assuming such a conclusion were founded (which is not the case), then at least another wholesaler with the other half of that volume would have some chance of competing with ARA for any exclusive distributorship imposed by the national distributors. As it now stands, however, with ARA retaining the vast majority of business volume unlawfully acquired, a competitor's chances are nil.

Therefore, the likelihood that ARA will prevail as the surviving wholesaler in Kansas City, St. Louis or New Orleans—whether through competitive (or anticompetitive) practices or through exclusive distribution rights—is in fact the single most significant competitive impact to be considered.

The minimal divestiture requirement does not improve the prospects of any other wholesaler as ARA's own counsel acknowledges.[18]

5. *Other Factors Bearing Upon the Public Interest.*—A proper test of the adequacy of a proposed consent judgment in an action of this nature is to view it ". . . on the basis of the relief provided, on the assumption that the government would have won." *United States* v. *Gillette Co.*, 406 F. Sup. 713, 716 (D. Mass. 1975). A comparison of the relief sought by the Complaint in this case with that provided in the proposed Final Judgment reveals obvious inadequacies, both in form and rationale. More importantly, as demonstrated herein, in its present form the proposed settlement will have serious anti-competitive effects.

Attached hereto as Exhibit J is a copy of a map prepared by ARA for use by its Eastern Region Vice President. One need only glance at it quickly to appreciate the full significance of ARA's vast expansion in the Midwest, an expansion attributable primarily to its unlawful acquisition of the three Molasky operations and the predatory conduct which made that possible. From a minor presence, it has become the dominant wholesaler. With the retention of the Molasky business and the continuation of its anti-competitive practices, it will soon overwhelm the remaining competition.

Numerous factors suggests that the public interest would not be served by blindly approving the proposed settlement at this time.

First, it is clear that at the time of its agreement to the proposed settlement, the Department of Justice did not have available to it material and significant documents called for by its document requests in this case. It is not clear that it yet has all of the material documents. Furthermore, the Department has not had the opportunity to conduct examination of witnesses regarding the actions referred to in such documents, *i.e.*, the conduct engaged in by ARA in violation of the Consent Decree which led to Molasky's elimination as a competitor.

Second, it is clear that the Department has based its financial analysis (or its analysis of ARA's sales) upon self-serving approximations, not supported by competent testimony, and without any comparison to the financial performance of other ARA operations. (We are advised that the Department of Justice was never provided with comparative sales and return figures, or revenue and cost information, from other "normal" ARA operations.)

Third, the Department's analysis of the financial data provided to it and the conclusions reached from that analysis are obviously in error. As demonstrated herein and by the comments of others, those conclusions substantially understate the business acquired by ARA in violation of the Consent Decree. This, in turn, distorts the calculation of the amount of the divestiture that is appropriate.

Fourth, the Department has acknowledged privately that it made no economic analysis of the potential competitive impact from implementation of the settlement that takes into consideration the single wholesaler concept. Yet, independent experience and ARA's own judgments confirm that only one wholesaler can long survive in a given area.

Fifth, the Department of Justice has refused to make available to the public, either as "determinative" documents pursuant to the Antitrust Procedures and Penalties Act or pursuant to Palmer's Freedom of Information Act Request, the interviews with retailers and other information which it contends support the conclusions asserted in the Competitive Impact Statement. Thus, neither competitors or customers, actual or prospective, are in a position to fully comment on the underlying rationale of the Department's position and proposed Final Judgment.

Sixth, the Department's refusal to make such information available for inspection pursuant to Palmer's Freedom of Information Act Request, its refusal to act on Palmer's administrative appeal, its refusal to move to extend the time for public comment to permit judicial review of the matter and the use in public comment of any materials ultimately obtained, all suggest an inordinate desire to ramrod the proposed settlement through to finality. It is respectfully submitted that the position taken by the Department, and the repeated refusals to lift the veils of secrecy covering the facts of this case, are directly contrary to the terms, intent and spirit of the Antitrust Procedures and Penalties Act.

Under the circumstances, the proposed settlement and Final Judgment ought not be adopted. A delay in the final resolution of the matter at this time will have little adverse effect upon consumers or retailers serviced by ARA and competing wholesalers. That service will continue as it presently exists. The proposed Final Judgment does not limit ARA's activities (lawful or unlawful) in any way, and ARA as well as its competitors are of the view that the limited divestiture provided for will not significantly improve any other wholesaler's competitive ability. Accordingly, a delay will not offend the public interest. Further investigation and discovery, albeit limited, should be pursued to fully and openly answer and satisfy the shortcomings and objections stated herein. Only then can the public and the Court act with full appreciation for the result to be expected, both for customers and competition, from a final settlement of this matter.

Dated: May 31, 1979.

Respectfully Submitted,

Olwine, Connelly, Chase, O'Donnell & Weyher,

Attorneys for Palmer News, Inc., 299 Park Avenue, New York, New York 10017, (212) 688-0400.

Sanders, Downing, Kean & Cazedessus,
Baton Rouge, La., May 18, 1979.

Re *United States of America* v. *ARA Services, Inc.*, Docket Number 77-1165-C(1) United States District Court for the Eastern District of Missouri.

U.S. Department of Justice,
Attention: Mr. Charles R. McConachie, Chief, Consumer Affairs Section, Antitrust Division, Washington, D.C.

Dear Mr. McConachie: Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 15, Bayou News Agency, Inc. of Baton Rouge, Louisiana makes this comment upon the proposed judgment in the above captioned case.

It is the view of Bayou News that the proposed judgment is not in the public interest in that it fails adequately to enforce compliance with the March 8, 1973 order of the Federal Trade Commission. That order prohibited ARA, for a period of ten years, from acquiring periodical wholesaling businesses which operate in a service area coextensive with or adjacent to a market where ARA is already engaged in such business without prior approval from the FTC, and provided that ARA may not acquire any wholesaler for a period of ten years without prior FTC approval unless ARA previously divests an equivalent size portion of its wholesaling operations.

In particular, we call to your attention the following:

1. The proposed judgment should seek to promote competition among wholesalers in each market. By failing to require ARA to divest any of its lucrative chain business in New Orleans, it fails to promote that goal in the New Orleans market.

The proposed judgment requires ARA to cease doing business with former Molasky customers accounting for a total annual volume of sales of $5.2 million. A minimum of $2.5 million shall be accounted for by sales to chain customers. However, there is no requirement that any chain business be divested in New Orleans. Moreover, the definition of chain customers (one with three or more retail outlets) includes some very small operations.

The large chain customers are the most profitable ones in the business. The profit margins in servicing independent or small volume businesses are small. At the time of Molasky's demise Molasky was serving three major supermarket chains in New Orleans—Schwegmann Brothers, Winn-Dixie and

[18] "No wholesaler not currently active in the Kansas City, New Orleans, or St Louis areas would be willing to enter any of those markets *de novo* without the assurance of sales volume far in excess of what ARA picked up after the demise of the Molasky Agency in that area." Letter from James S. Campbell to Charles R. McConachie, August 5, 1977, at p. 2.

National Foods. This was the cream of Molasky's business in New Orleans. ARA acquired all of these three major chain customers at Molasky's demise. Molasky went out of business on Friday, December 8, 1976 and ARA moved into Molasky's warehouse the next day and served Molasky's customers, including these chains, with Molasky's employees and equipment. ARA received and distributed magazine shipments that had been intended for Molasky and by doing so was able to stock these customers. Bayou News was unable to get any of these chain customers.

ARA services ten significant chains in the New Orleans market. These ten chains operate 239 stores and account for an annual sales volume of approximately $4 million.[1] Of these, the three chains ARA took over on Molasky's demise include 58 stores and account for approximately $2 million in annual volume. The significance of these three chains in the market is obvious. By contrast, Bayou News (now Metro News Co., Inc., Bayou News' wholly owned New Orleans subsidiary) has only four significant chains which include 70 stores and account for approximately $1 million in annual volume. There are no other wholesalers in the New Orleans market. Thus ARA has 80 percent of the significant chain business measured by annual dollar volume. The three chains ARA took over on Molasky's demise account for 50 percent of ARA's significant chain business in New Orleans. Those three accounts alone are twice as large as Metro's significant chain business.

The proposed order, far from fostering competition in the New Orleans market, actually allows ARA to double its significant chain business by retaining all three of the big chains formerly served by Molasky.

The proposed order should require ARA to divest significant chain [2] business in New Orleans. One approach would be to require ARA to divest that portion of its significant chain business required to reduce ARA's significant chain business to 50 percent of the significant chain business in the market. Another approach would be to require divestiture of the three large chains that ARA acquired on Molasky's demise.

2. The $5.2 million of Molasky customer business that ARA is required to divest is said to represent only 35 percent of the sales that moved from Molasky to ARA between June 1, 1976 and December 31, 1976. Bayou News believes this divestiture percentage is inadequate. By assuming control of the Molasky facilities ARA acquired an extremely valuable competitive advantage over other wholesalers who desired to compete for the Molasky customers. Among other things,, publishers and distributors continued to ship products to the Molasky warehouse in New Orleans taken over by ARA, so that ARA was in the position of being able to provide former Molasky customers with products for a period of several months after the Molasky demise, which opportunity was not available to competitors. Once ARA had by this means established a relationship with former Molasky customers, it was extremely difficult for ARA competitors to obtain business from the former Molasky customers.

Since the $5.2 million divestiture represents only 35 percent of the business taken over on Molasky's demise, the 65 percent ARA is being allowed to retain represents approximately $10 million in business annually. ARA is being allowed to retain that business by payment of a $300,000 penalty. In the New Orleans market, the proposed judgment requires divestiture of only $1 million worth of business. Bayou News estimates that ARA acquired approximately $4 million of New Orleans business on Molasky's demise. The proposed judgment would allow ARA to retain $3 million of that. Thus ARA could retain the three lucrative chain accounts mentioned above plus $1 million in business of other former Molasky customers in New Orleans. Undoubtedly the most profitable customers will be selected by ARA for retention, and the least profitable ones will be dropped. We fail to see how this fosters competition in the New Orleans market.

Thank you very much for your attention to these comments.

Very truly yours,

William R. D'Armond,

Attorney for Bayou News Agency, Inc.

Mize, Houser, Mehlinger, and Kimes,
Topeka, Kans., May 21, 1979.

U.S. Department of Justice,
Attention: Mr. Charles R. McConachie, Chief, Consumer Affairs Section, Antitrust Division, U.S. Department of Justice, Washington, D.C.

Dear Sirs: As accountants for Palmer News, Inc., a wholesaler of paperbacks and periodicals, we have followed with interest the suit filed by the United States of America vs. ARA Services, Inc. in the United States District Court for the Eastern District of Missouri.

In reviewing the proposed final judgement to be rendered in the case of United States of America vs. ARA Services, Inc., the judgment requires, in Section V, the defendant to "cease doing business with Molasky customers accounting for a total annual volume of sales of $5.2 million. ($5.2 million in sales volume is agreed by the Plaintiff and Defendant to represent at least 35% of the annual volume of sales that moved from the Molasky companies to Defendant between June 1, 1976 and December 31, 1976.)"

If $5.2 million represents "at least" 35% of the sales volume, then total sales volume, for purposes of this computation, could not have exceeded $14, 857,143 after applying the inflation factor. The CPI index entitled "U.S. city average, all urban consumers, and all items" was 207.1 in February 1979 and 174.3 in December 1976. Converting the sales back to December 1976 dollars would indicate that the total sales volume calculated for 1976, for purposes of determining the settlement, was 174.3 ÷ 207.1 × $14,857,143 or $12,504,105, or perhaps somewhere between $12,500,000 and $12,600,000.

While I have not seen the computations which resulted in the determination that sales for the period which moved from Molasky to ARA Services, Inc., in terms of annualized volume, totaled something less than $12,600,000, my understanding is that this computation included annualizing January 1977 volume and comparing that amount with an amount based upon annualizing June 1976 volume. Further, since the return percentage was abnormally low for January 1977, the average return percentage for the year 1977 was applied against gross sales for January 1977. An inflation rate was then applied to the calculated sales volume in order to apply the 1976–1977 facts to the 1979 economy.

Attached are Exhibits A, B and C, which represents gross billings, returns and net billings of ARA Services, Inc. as submitted by ARA to the government in this case.

As a CPA and an auditor, but not knowing the facts of the case, several questions arise solely from a review of Exhibits A, B and C.

1. Have the amounts contained in these exhibits been audited?

2. Are the amounts contained in Exhibits A, B and C reflected on the accrual method of accounting? Are the amounts contained in these exhibits presented in accordance with generally accepted accounting principles?

3. If the underlying amounts have not undergone compliance testing, have the amounts been traced into the Company's financial records and the financial records compared with the Company's financial statements?

4. From the months of October 1976 through December 1977, the net sales are reflected in "rounded amounts" but gross billings and returns are shown in exact dollars. Since gross sales were reflected in dollar amounts and net sales were shown in rounded amounts, it raises the question as to whether net sales were "estimated amount (gross sales less "estimated" net sales equal "estimated" returns).

5. The net billings on Exhibit A is exactly the same amount for both December 1976 and January 1977, $421,000. Since January 1977 amounts are so important in the calculation of the settlement, curiosity causes me to inquire if net billings were the same for both months.

6. I understand that a group known as APS attempted in the fall of 1976 to salvage Molasky's operations. It is my understanding that APS was unable to get properly set up for handling collections and retailer returns of paperbacks and periodicals. Since, in

[1] All figures in this letter are necessarily estimates and approximations, but are believed to be substantially correct.

[2] In this connection, the proposed judgment allows ARA to treat as a "chain" any retailer with three or more retail outlets. This is wholly inadequate. ARA should be required to divest itself of some business from the significant chains, and the definition of "significant chain" should take into account volume of business as well as number of locations.

this industry, retailers and wholesalers can receive full credit on their returns, obviously the retailers would have returned the unsold periodicals and paperbacks to the wholesaler. Is it possible that these merchandise returns could have been returned to ARA Services, Inc. and included in ARA Services, Inc. returns, thus, reducing ARA Services, Inc. net sales significantly below what the actual net sales of ARA Services, Inc. were during the period of late 1976 and early 1977?

Assuming the accuracy of the facts contained in Exhibits A, B and C, sales volume of ARA Services, Inc. in the three markets was as follows:

	St. Louis	Kansas City	New Orleans	Total
Net billings, 1977	$11,428,000	$5,188,000	$8,263,129	$24,879,129
Net billings, 1976	3,073,940	3,463,147	1,840,677	8,377,764
Increase in net billings	8,354,060	1,724,853	6,422,452	16,501,365

The above amounts, taken from Exhibits A, B and C, reflect an increase of $16,500,000 year-to-year. I believe this simple comparison alone indicates that the volume of sales that moved from Molasky to ARA certainly exceeded the $12,600,000 discussed earlier.

The annualizing of sales volumes, based upon one month's sales volume both before (June 1976) the movement of volume from Molasky to ARA and after (January 1977), appears to me to have understated the movement which occurred.

In Section V of the proposed judgment, it indicates that the period of movement of sales from Molasky customers to ARA Services, Inc. took place during the period June 1, 1976 through December 31, 1976.

It appears to me that perhaps a more accurate measurement of the annualized sales volume would be to take a calendar period immediately preceding the movement of sales volume and compare that with the sales volume for the same calendar period in the year immediately following the movement of sales volume.

	St. Louis	Kansas City	New Orleans	Total
Net billings, January–May 1977	$4,637,000	$3,562,000	$2,126,000	$10,325,000
Net billings, January–May 1976	727,660	1,143,228	581,838	2,452,726
Change in net billings for comparative five-month periods	3,909,340	2,418,772	1,544,162	7,872,274
Annualized change in net billings				18,893,457

Further, the return percentage of gross billings is approximately the same for both years for the five-month periods included in the computation.

	Five months ended May 31, 1977	Percent	Five months ended May 31, 1976	Percent
Gross billings	$20,813,561	100.00	$4,911,135	100.00
Returns	10,488,561	50.39	2,458,409	50.06
Net billings	10,325,000	49.61	2,452,726	49.94

Based upon the above comparison, it appears that perhaps the sales volume which moved from Molasky to ARA was approximately $18,500,000 to $19,000,000 rather than $12,500,000 to $13,000,000.

Another question is whether the 35% divestiture should be applied only against the $18,500,000 or $19,000,000 or whether the 35% should be calculated on the total annualized volume taken over from Molasky by all wholesalers since ARA shall be able to reflect as a divestiture the annual sales to any customer if the following facts are true as described in V(B)(1) of the aforementioned proposed final judgment.

The "Molasky customer was one with whom the Defendant ceased doing business after December 6, 1976, but before the entry of this Final Judgment, and to whom Defendant did not make sales of periodicals or paperbacks for a period of one year after ceasation, and such customer is so identified in Defendant's Divestiture Report;"

It appears that, to the extent other wholesalers were successful in obtaining Molasky customers following December 6, 1976 and able to retain those customers for a full year, ARA shall be able to treat that as a divestiture. If this is true, then it appears to me that the sales volume obtained by other wholesalers of Molasky customers should be added with the $18,500,000 to $19,000,000 calculated above before application of the 35% for purposes of arriving at the amount to be divested by ARA Services, Inc.

The foregoing analysis which suggests some of the questions which would be considered by an auditor in trying to develop the sales volume involved in the acquisition and the rationale of the proposed divestiture will, we hope prove useful in your evaluation of the proposed settlement. This leter is submitted as a comment pursuant to the Antitrust Procedures and Penalties Act.

Sincerely

Robert M. Mehlinger.

U.S. District Court for the Eastern District of Missouri, Eastern Division

United States of America, Plaintiff, v. *ARA Services, Inc.,* Defendant.

No. 77–1165–C(1).

Filed March 26, 1979.

Comments of Independent News Co., Inc., Relating to Proposed Final Judgment Against ARA Services, Inc.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), Independent News Company Inc., ("Independent"), hereby files these written comments relating to the proposed final judgment ("proposed judgment") submitted for entry against ARA Services, Inc. ("ARA") in the above-captioned civil antitrust action.

Independent is a national distributor of periodicals and paperback books. Acting as agent for the publishers whose titles it represents, Independent distributes periodicals and paperback books to wholesalers located throughout the United States (including, among others, wholesaler affiliates of ARA and, until late 1976, the "Molasky companies" identified in Subsection II(E) of the proposed judgment). Such wholesalers then sell these publications to newsstands, drug stores, supermarkets and other retail outlets, for ultimate sale to the consuming public.

These comments related to Section V of the proposed judgment. That section provides, in part, that within one year ARA must cease doing business with former customers of the Molasky companies, as identified in Subsection II(G) of the proposed judgment, accounting for a total annual volume of sales of $5.2 million. Subsection V(C) provides that ARA may satisfy its obligation to "cease doing business" with these former Molasky customers by any means, including the sale of all or parts of ARA's wholesaling business in any Molasky service area [1] to a purchaser approved by the United States Department of Justice or, if there is a disagreement, by the Court.

Independent is submitting these comments because Section V, and in particular Subsection V(C), of the proposed judgment may inadvertently disregard the well-established and recognized right of

[1] Section II(F) of the Judgment defines "Molasky service area" as any of the following three geographical areas in which a Molasky company distributed periodicals of paperbacks on or after June 1, 1976: [i] the St. Louis, Missouri, metropolitan area and parts of the States of Missouri, Illinois, Kentucky and Tennessee; [ii] the Kansas City, Missouri, metropolitan area and parts of the States of Missouri and Kansas; and [iii] the New Orleans, Louisiana, metropolitan area and parts of the States of Louisiana, Mississippi and Alabama.

Independent to be free to select the wholesalers with whom it wishes to deal.[2] Specifically, Independent requests that the proposed judgment be revised so as to make it clear that approval by the Department of justice or by the Court of any proposed sale under Subsection V(C) shall not be in derogation of, and shall not impinge upon, the right of a potential supplier to freely select the wholesalers with which it wishes to do business.

Implicit in the language of Section V of the proposed judgment, and particularly Subsection V(C), is the assumption that with regard to any proposed sale by ARA, the Department of Justice's interests and business interests of a company such as Independent will necessarily be consistent. It assumes that a proposal by ARA to sell all or part of its wholesaling operations in a Molasky service area, or otherwise to cease doing business with any former Molasky customer, if satisfactory to the Department of Justice, will also be satisfactory to all suppliers and potential suppliers. As will be discussed below, this may not in fact be true as to Independent in all instances.

Neither the proposed judgment nor the competitive impact statement filed by the Department of Justice sets forth the criteria that would be applied by the Department of Justice when determining whether to approve a proposed sale by ARA of all of any part of its periodicals and paperbacks wholesaling business in any Molasky service area to another wholesaler. Thus, Independent cannot precisely set forth those instances in which its interests and those of the Department of Justice may be inconsistent. However, the factors Independent considers when determining whether to do business with a wholesaler seeking to buy all or part of an existing wholesaler customer's business can be identified for the information of the Court.

Independent will consider in such circumstances the applicant's financial condition, its overall credit worthiness, its prior experience in the wholesaling business, and its apparent ability to promote and distribute in a meaningful fashion the various titles represented by Independent. Additionally, Independent will not commence dealings with the applicant unless the applicant agrees to assume the existing debts to Independent of the prospective seller.[3]

When an applicant is not in fact purchasing operating and physical facilities of a predecessor, Independent would also consider the applicant's internal operating procedures, the location and adequacy of its physical facilities, the sophistication of its data processing equipment, and the overall adequacy of its record keeping procedures.

Finally, when a wholesaler is only seeking to service individual or a limited number of retail accounts in the geographic area involved, before Independent will agree to have publications delivered to the applicant at a facility in that geographic area, Independent will consider whether the geographic area involved is currently being serviced adequately by one or more wholesalers with whom Independent is already doing business.

The Department of Justice may not consider any of these business factors which are important to Independent in determining whether it will approve a sale proposed under Subsection V(C) of the proposed judgment. Accordingly, it is essential that Independent's basic right to select those wholesalers with whom it wishes to deal not be disregarded in the Judgment to be entered herein.

Moreover, in any particular instance there may be legitimate reasons other than those identified above which will cause Independent to determine not to choose to do business with a wholesaler applicant, or not to be willing to have publications delivered to an existing wholesaler customer's facility in a particular geographic area. Again, Independent has no reason to believe that the Department of Justice would consider such factors when determining whether to approve a proposed sale by ARA. For example, Independent is currently involved in antitrust litigation in the United States District Court for the District of Kansas with four affiliated wholesale agencies referred to as the Palmer Companies.[4] In that action, Independent has filed a counterclaim (copy annexed) seeking damages and injunctive relief alleging, *inter alia*, that the Palmer Companies, in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, have unlawfully acquired monopoly power in the distribution and sale of publications in the geographic markets that they service. Those markets include all or parts of the States of Kansas and Missouri, and are contiguous to the Molasky service areas involved herein. Independent contends in its counterclaim that the Palmer Companies obtained this monopoly position by, *inter alia*, acquiring several potential wholesale competitors. It is further alleged that these acquisitions have enabled the Palmer Companies to extend their areas of market control and eliminate potential competitors, thus increasing barriers to new entry in the markets in which they operate and their surrounding markets. Moreover, Independent has alleged that the acquisitions have substantially lessened competition in the relevant geographical markets involved, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

Independent might consider an acquisition by any of the Palmer Companies of all or part of ARA's periodicals or paperbacks wholesaling business in any Molasky's service area to constitute unlawful conduct in furtherance of the violations alleged in Independent's counterclaim in the District Court for the District of Kansas. In such event, Independent would seriously consider seeking appropriate relief in that Court, including a possible injunction, against the consummation of any such proposed acquisition.

Conclusion

For the reasons indicated above, the proposed judgment should be revised so as to clearly indicate that any approvals by the Department of Justice of a proposed divestiture by ARA of former Molasky customers, or all or part of ARA's wholesaling business servicing any former Molasky service areas is not in derogation of, and does not impinge upon, the recognized right of Independent to freely select the wholesalers with whom it will do business.

Respectfully submitted.

Dated: May 31, 1979.

Frank Herrera,

President, Independent News Co., Inc.

U.S. District Court, Eastern District of Missouri, Eastern Division

United States of America, Plaintiff, v. *ARA Services, Inc.*, Defendant.

No. 77-1165-C(1).

Comments on Proposed Settlement and Stipulation

These comments are being submitted pursuant to the Anti-Trust Procedures and Penalties Act, 15 U.S.C. § 16, et al., for evaluation and comment by the United States Government. These comments are being submitted on behalf of Egypt News Company, Inc., and Egypt News Company, Inc., doing business as Austin Enterprises, (both of which are hereinafter referred to as Egypt News).

Egypt News operates a wholesale paperback and periodicals agency with offices and facilities in St. Louis, Missouri, Washington, Missouri, and Johnston City, Illinois. These agencies do business in the southern half of Illinois and St. Louis, St. Louis County, and the southern half of Missouri. These comments are being submitted for reason that ARA, the defendant in the above cause, is Egypt New's major competitor in St. Louis, St. Louis County, and the southern one-half of Missouri, which necessarily means that the proposed settlement and stipulation will have a material and adverse effect on Egypt New's business and on Egypt New's ability to compete with ARA in the markets above mentioned. Egypt News will try and restrict its comments as to how it believes the St. Louis market will be affected by the proposed settlement and stipulation.

1. *Background.* Egypt News has been soliciting business in the St. Louis area since 1974. This solicitation was focused on

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[2] As stated in *United States v. Colgate & Co.*, 250 U.S. 300, 307 (1919):

" " " In the absence of any purpose to create or maintain a monopoly, the Act does not restrict the long recognized right of [a] trader or manufacturer engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal " " ".

See also Reed Bros. v. *Monsanto Co.*, 525 F. 2d 486 (8th Cir. 1975), *cert. denied*, 423 U.S. 1055 (1976); *Eaton, Yale & Towne, Inc.* v. *Sherman Industries Equip. Co.*, 316 F. Supp. 435 (E.D. Mo. 1970).

[3] Only once in its business history has Independent dealt with a successor to a wholesaler without obtaining such an agreement. This occurred at the time Independent discontinued its dealings with the Molasky companies after Independent was advised that those companies would cease operations. Despite numerous efforts by Independent to obtain such assurances, no wholesaler was in a position to assume the Molasky companies debts to Independent.

[4] The Palmer Companies comprise the following four affiliated wholesale agencies: Palmer News, Inc., Topeka, Kansas; Eric Nelson News, Inc., Omaha, Nebraska; M-S News Co., Inc., Wichita, Kansas; Southwest Periodical Distributing Co., Tucson and Tempe, Arizona.

contacting retailers in the St. Louis area regarding their existing supplier of periodicals and paperbacks and whether the possibility existed of the retailer switching wholesalers to Egypt News for their supply of paperbacks and periodicals. At the time of these solicitations, the Molasky family controlled virtually 100% of the St. Louis area wholesale paperback and periodical business. The Molasky family had controlled the St. Louis market with a virtual monopoly for decades. Defendant, ARA, was also in the St. Louis market soliciting on the retail level, but appeared to have as much success as Egypt News in making inroads into the Molasky position as the prime wholesaler to St. Louis retailers . . . very little.

Concurrently with this solicitation, ARA was enjoying phenomenal success in becoming the dominant factor in other parts of the United States as a wholesaler of periodicals and paperbacks. ARA is now the largest wholesaler in the United States of periodicals and paperbacks for resale through newsstands and other retail outlets. It is one of the largest suppliers of vending and manual food services in the United States. The distribution and sale by wholesalers of periodicals and paperbacks to retail outlets in the entire United States comes to more than Eight Hundred Million Dollars per year in annual sales and is fast approaching One Billion Dollars in annual sales. In the United States, there are over five hundred local wholesalers who service the entire retail accounts structure. ARA's growth in the wholesale periodical and paperback distribution area initiated in 1968 when ARA began making acquisitions of existing wholesale operations. By 1969, ARA had almost ten percent of all sales from wholesale to retail in the United States involving paperbacks and periodicals. By 1970, this figure was twelve percent, by 1971, sixteen percent, and by 1975, approximately twenty-five percent. ARA Services does more than fifty percent of the annual business in the State of California and has virtual monopolies in other states including Hawaii and Oklahoma.

Because of the acquisitions by ARA Services, and because of their tremendous share of the market, ARA had the effect of substantially lessening competition and tended to create a monopoly in the wholesale distribution of periodicals. As a result of this potential or actual competitive effect, and as a result of their position in the marketplace, the Federal Trade Commission in 1973, issued a complaint against ARA alleging violations of the Clayton Act and Federal Trade Commission Act.

As a result of that Complaint, in 1973 ARA entered into a Consent Order with the Federal Trade Commission whereby ARA would divest itself of certain acquired wholesale operations. The Consent Decree also ordered that for a period of ten years, ARA would not, without F.T.C. approval, acquire directly or indirectly, any city operation for the sale of periodicals and paperbacks at wholesale; and would not acquire, either directly or indirectly, any concern engaged in the periodical or paperback industry where the principal service area of that concern was in California, District of Columbia, Hawaii or Oklahoma. The Consent Decree also ordered ARA not to exclude or attempt to exclude actual or potential competition for the sale of periodicals and paperback publications by agreement or by threats, either express or implied, to competition or potential competition, nor to attempt to influence publishers or national distributors of periodicals or paperbacks not to supply their publications to competitors or potential competitors of ARA.

With that background as perspective, it is apparent that the Molasky companies began experiencing severe financial problems in late 1975 and early 1976. As a result of these financial difficulties, which included problems with their sources of periodicals and paperbacks, the national distributors, the Molaskys, began negotiations with various individuals and entities for the proposed sale of the Molasky wholesale operations in cities which included St. Louis. As a result of these negotiations, Egypt News was contacted by the Molasky organization in October, 1976, relative to Egypt News interest in purchasing the St. Louis operation. This contact led to a same day late night meeting between principals of Egypt News and its attorneys and principals of the Molasky companies and its attorneys. As a result of this meeting on October 28, 1976, Egypt News was given less than twenty-four hours to decide the wisdom of purchasing the Molaskys' St. Louis operation. The price stated for said purchase was in the millions of dollars. These time frames of twenty-four hours for a decision did not adequately provide Egypt News with sufficient time to determine and examine the extent of the problems associated with the purchase such as what assets were being bought, what liabilities were being assumed, the existence of labor contracts and their related problems, the tax liabilities of a new purchaser and numerous other areas of concern to Egypt News and its principals. Also, Egypt News was aware that millions of dollars was owed to the national distributors and important questions had to be resolved with them such as the assumption of these debts, whether they would supply Egypt News with their product, and the amounts of these outstanding debts.

Because of these uncertainties and the time frame for purchase imposed by the Molaskys, Egypt News declined the offer to purchase the St. Louis agency. Subsequent events have shown that others were also discussing a proposed purchase of the St. Louis market but on what terms is not known to Egypt News.

In early December, 1976, the Molaskys and defendant, ARA, entered into an Agreement whereby ARA would operate the Molasky agencies in St. Louis, Kansas City, and New Orleans under terms and conditions that were never offered to Egypt News nor to any other individual or entity that Egypt News is aware of. What part the national distributors had in determining these terms with ARA, what agreements ARA had with the national distributors to repay Molasky debts to the national distributors, and what inducements formed the basis for their agreement is not within Egypt News's knowledge, but without the aid and cooperation of the national distributors, ARA would not be in the position in the St. Louis market that it currently occupies.

The United States Government after contacting the national distributors, and after interviewing numerous witnesses, did conclude that the Molasky agencies allotments of periodicals and paperbacks were transferred to ARA at a crucial time in December 1976 which gave ARA a significant advantage over other wholesalers who were competing for the Molasky business and for other business at a time of the Molaskys financial problems. Egypt News related to the Government that some publishers would not give them any allotments of peridicals and paperbacks for weeks during these crucial periods, thus leaving ARA as the only source of supply in St. Louis at a time when retailers were deciding which wholesalers to switch to from the Molaskys. ARA further communicated to the retailers that it was taking over the Molasky agency; that it was hiring key Molasky personnel; and called on existing retailers to collect the outstanding payables due to the Molasky agency. ARA received certain confidential information, not available to Egypt News and other wholesalers, as to the Molasky customer allocations which enabled ARA to immediately service retailers with products. Some of the Molasky customers began receiving periodicals and paperbacks from ARA without ever realizing that Molasky was out of business and without authorizing ARA to supply them with goods. Also at this crucial point in time, representatives of the national distributors were calling on retailers to induce them to use ARA as their source of supply of paperbacks and periodcals.

All of these actions and more were being taken by ARA at a time that they were under a 1973 F.T.C. Cease and Desist Order which prevented them, because of their size, volume and potential monopolistic position in the wholesale periodical and paperback distribution business, from acquiring any more city wholesale operations, without prior F.T.C. approval.

2. *The Effect of the Stipulation and Settlement.*—The obvious effect of the Stipulation and Settlement is to allow ARA to acquire three city wholesale operations for the distribution of periodicals and paperbacks on the payment of a fine and penalty of Three Hundred Thousand ($300,000.00) Dollars and upon divesting itself of 5.2 million dollars of annualized sales. The $300,000 penalty to a cooperation the size of ARA, with the assets of ARA, and with the income of ARA, is a token and would be a relatively minor amount compared to the value of the acquired city agencies.

The F.T.C. had moved for ARA to completely divest from the Molasky areas (St. Louis, Kansas City and New Orleans) and had forwarded the action to the Department of Justice to force ARA to completely divest itself of these three markets and to pay a fine of Ten Thousand Dollars per day for their unlawful activities. This action by the F.T.C. was based on their 1973 findings that to allow ARA to acquire more city operations, at a time of their apparent superior position in the

marketplace, would or could have the following effects:

1. Allowing ARA to obtain substantial economic power over publishers and national distributors and over the sale of paperbacks and periodicals by them.

2. Allowing ARA to obtain decisive economic power in the various geographic markets in which it operates over actual and potential competing wholesalers of periodicals and paperbacks.

3. Allowing ARA to become entrenched in the various geographic markets in which they operate which enhances and increases barriers to entry by other wholesalers where ARA operates its wholesale paperback and periodical business.

4. Inhibiting or restraining the emergence of competition in ARA markets.

5. Eliminating all competition and potential competition in ARA markets.

However, in spite of the F.T.C. position on divestiture, the Department of Justice seeks to settle this matter by allowing ARA to retain sixty-five percent of the acquired business which both the F.T.C. and the Government concede were acquired without F.T.C. approval, thus making ARA guilty of violating the 1973 F.T.C. Cease and Desist Order. Egypt News's position as to whether ARA is really keeping sixty-five percent of the acquired territory or a higher percentage is reached in paragraph 4 following.

The settlement does not adequately punish ARA for its unlawful acquisitions and in fact, allowed them to tremendously benefit by keeping substantially all of the business they acquired unlawfully.

3. *Divestiture by ARA of Vehicles and Distribution Facilities.*—Under Article IV of the proposed Final Judgment, ARA is to divest itself of any ownership in and shall cease using all Molasky distribution facilities and Molasky vehicles and is to make available for sale, racks or physical equipment to any competing wholesaler, who notifies ARA of their interest to purchase same.

Egypt News is unable to understand how this benefits the retailers, benefits competing wholesalers, or punishes ARA. Most wholesalers have their own vehicles for the delivery of periodcals and paperbacks or could easily lease or purchase new vehicles from sources independent of ARA. Also, most wholesalers have adequate warehouse facilities and/or in a city the size of St. Lousi, the availability of adequate warehouse space precludes the necessity of obtaining this facility from ARA in a divestiture.

ARA will certainly have the availability of vehicles and warehouse space, independent of the Molasky facilities and vehicles and to force them to terminate use of these facilities and vehicles would not cause any detriment to ARA. In fact, the Government will probably be doing ARA a service in this area as to the St. Louis warehouse facility since its size, opulence and expense probably do nothing but hurt ARA by its continued use. Egypt News would submit that the only one to suffer under this part of the proposed settlement would be the owner of the Molasky warehouse facility who is going to wind up with an empty building.

Nowhere in the competitive impact statement which was filed by the United States Government as part of the proposed settlement is there any mention of how the divestiture of vehicles and warehouse facilities will have any material effect on any of the parties in the St. Louis area or in any other area. The reason for this is obviously that the divestiture of vehicles and warehouse space will have absolutely no effect on any competitors, retailers, and the consuming public.

4. *Divestiture of 5.2 Million Dollars in Total Annual Volume of Sales With Former Molasky Customers.*—Under Article V of the Proposed Final Judgment, ARA is to "cease doing business with" former Molasky customers for a total annual volume of sales of 5.2 million dollars. This divestiture is to be at least one million dollars in each of St. Louis, Kansas City and New Orleans, and is to total a minimum of 2.5 million dollars to chain retailers. Under Article V(c) of the proposed Final Judgment, "cease doing business" is defined as being "by any means, or for any reason" which is to include sale.

The Government arrived at the 5.2 million dollars sales figure by the following calculations which are based on figures not available to Egypt News but which do not seem to be very accurate. The Government has accepted from ARA that ARA has only acquired fifteen million dollars in annual sales from the Molasky companies in St. Louis, New Orleans and Kansas City. They have further accepted from ARA that ARA would have picked up fifty percent of this business irrespective of any illegal activity. Thus, the Government is forcing ARA to divest itself of seventy percent of the fifty percent unlawfully acquired which is a thirty-five percent total divestiture of the fifteen million dollars which ARA claims it has picked up in annual sales in the three markets which comes to a total of 5.2 million dollars.

This thought process has several weaknesses in its logic. Firts, ARA would have gotten very little of the Molasky business had it been sold with the Molasky personnel helping a new purchaser other than ARA and with the new purchaser taking over the warehouse facility, the vehicles, the customer lists, the confidential information, etc. The Government's acceptance of ARA's position that they would have acquired half the Molasky business belies the point that had there been a sale of the Molasky business to another wholesaler there would have been absolutely no business flowing to ARA except for a very small portion. Egypt News suspects that the position of ARA in the marketplace based on their tremendous sales volume in the United States had the effect of forcing the national distributors to deal with them and of forcing the national distributors to accept ARA as the wholesaler in these three markets. Secondly, ARA would have gotten little of the Molasky business had not the national distributors assigned to them the product necessary to sell to the retailers in St. Louis to the exclusion of other wholesalers. If ARA had no product to sell (as Egypt News did not) all they would have had would have been empty promises to the retailers and the substantial portion of the business would have gone to those wholesalers with the products to supply to the retailers. Third, had not the national distributors helped ARA maintain the Molasky business, they would not have obtained this large share which they did. It may have been in the national distributors best interests to help ARA to the exclusion of other wholesalers for their own buiness justifications, but certainly some of the reasons are the same as in paragraph 2 of these comments due to ARA's stranglehold over the national distributors, which is the chief reason why more acquisitions by ARA were to be limited and scrutinized by the Federal Trade Commission.

The fifteen million dollar sales figure of acquired business seems terribly low as the St. Louis area alone should support ten to twelve million dollars in annualized sales. Egypt News would like to examine the figures available to support the proposition of ARA that they only acquired fifteen million dollars in annual sales from the Molasky customers.

However, the most ridiculous provision of the entire proposed Final Judgment is to allow ARA to claim as part of the 5.2 million dollar divestiture, annualized sales which they "ceased doing business with by any means". Egypt News believes that the United States Government contemplates that ARA will have to divest itself of 5.2 million dollars as a punishment to ARA. This punishment to ARA is based on the Government's belief that ARA has unlawfully acquired fifty percent of the fifteen million dollars in annualized sales of the Molasky companies and that ARA is being forced to divest seventy percent of that fifty percent or 5.2 million dollars. In reading the competitive impact statement proposed by the Government, the Government states that they believe that ARA illegally and unlawfully acquired 7.5 million dollars in annualized sales which was in violation of the F.T.C. Order. To punish ARA for its actions, the Government forces ARA to get rid of 5.2 million dollars in sales. This is to theoretically benefit other wholesalers who were hurt by ARA's actions, to benefit the retailers, and to benefit the consuming public, at the same time punishing ARA for its actions.

However, a close look at Article V(c) does not accomplish any of these purposes. Egypt News believe that the Government anticipates the 5.2 million dollars to be by sale by ARA to another wholesaler or other wholesalers. Egypt News believes that ARA will probably, after the signing of the proposed Final Judgment, contend that they have already disposed of substantially all of the 5.2 million dollars by either, (a) loss to competitors, or (b) abandonment by ARA. Either loss by competition or abandoment by ARA would fall under the Government's definition of "cease doing business by any means."

Since December, 1976, Egypt News and other wholesalers have been competing with ARA in the St. Louis area. In spite of the obvious advantages enjoyed by ARA over its competition, Egypt News and others have been successful in taking away from ARA

some wholesales business. Competing in the marketplace, Egypt News has been able to make small inroads into ARA's business. ARA has also been competing against Egypt News in the St. Louis area and has successfully taken away some of Egypt News' retail customers. The exact figures of gains from ARA and losses to ARA are not easy to obtain, but rough estimates indicate that Egypt News has gained from ARA between $500,000 and $700,000 in annualized sales at the same time losing a corresponding amount to ARA.

Under the definition of "cease doing business" as it applies to the 5.2 million dollar divestiture, ARA will be able to claim that they have already "ceased doing business" with any retailer which they lost through competition to another wholesaler. Multiplying this loss rate of other wholesalers in the St. Louis area and to other wholesalers in Kansas City and New Orleans, ARA has probably lost to competition between two and three million dollars in annualized sales which ARA will claim as a credit toward the 5.2 million dollar obligation of divestiture. Nowhere in the proposed Final Judgment does it give any effect to what ARA has taken from its competition after the December, 1976 date. This appears to be totally unfair to competing wholesalers and also beyond logic. This proposition gives ARA the benefit of its superior position in the marketplace in its dealings with retailers, and at the same time, punishes existing wholesalers who have succeeded in taking away ARA's business through competitive tactics.

Also, since 1976, Egypt News believes that ARA has been abandoning certain retail accounts. Egypt News believes that this abandonment, which has been stepped up in 1978 and early 1979, was based on ARA's knowledge that the proposed settlement would give them the benefit of business which they have "ceased doing business with". This abandonment of retailers will also be claimed by ARA as part of what they have "ceased doing business with" as it applies to the 5.2 million dollar divestiture. Thus, ARA will be getting credit for actions which ultimately were detrimental to the retailers who were abandoned and to the consuming public who will have to go to other sources for their supply of paperbacks and periodicals at retail.

Thus, ARA will be in a position where they have very little of the 5.2 million dollars left to divest. The Government's plan to give ARA credit for the business which they have "ceased doing business with by any means" is very beneficial to ARA with very little benefit to competing wholesalers and the consuming public.

The Government's definition of "retail chain" as consisting of three retail outlets is also one that is not accepted in the industry. ARA is aware that the lucrative business in the wholesale paperback and periodical industry comes from the retail chain accounts. By limiting the definition of "chain accounts" to at least three stores, ARA has prevented the Government from forcing them to divest of these lucrative accounts. Egypt News would contend that the definition of retail chain accounts should include more than three retail outlets since some chains in the St. Louis area have numerous retail outlets. The Government is establishing a situation where two wholesalers may end up servicing the same chain, which will cause bookkeeping problems for the retail chain and for the wholesaler. A more intelligent approach would be to specifically force ARA to divest at a paticular chain such as Schnucks, Kroger, National Food Stores, etc., which eliminates the dual distribution problems of the wholesalers and retailers. If the Government contends that ARA unlawfully acquired some of this chain business, this would appear to be the better solution.

Egypt News predicts that the National Distributors will also be opposed to dual distribution of a single chain as it makes their record keeping extremely difficult.

5. *Civil Penalty of Three Hundred Thousand Dollars.*—Under Article VII of the proposed Final Judgment, ARA is to pay a civil penalty of Three Hundred Thousand ($300,000.00) Dollars which sum represents a penalty for the unlawful acquisitions. Because of the substantial assets and income of ARA, this is a relatively minor penalty and is a relatively inexpensive way to acquire new city agencies in violation of the F.T.C. directives not to do so. Since no benefit accrues to Egypt News, and/or other competing wholesalers, or to the consuming public from this penalty, the dollar amount is not as important as the terms of the proposed Final Judgment. However, the amount of the fine in comparison to assets and income do not appear to be a deterrent to future violations by ARA.

6. *Use of "Blind" Divestiture.*—ARA is being allowed to settle the Government suit on the terms of the proposed Final Judgment with ARA then being under an obligation to take certain actions which are to be in line with the language of the proposed Final Judgment. Egypt News believes that ARA should be required to submit a plan of divestiture to the United States District Court prior to approval indicating how the divestiture is to be achieved and to whom. This would give wholesalers, retailers and other interested parties a chance to comment on the specifics of the plan. In particular, the sham of giving ARA credit for abandoned accounts or accounts lost to competition would be reviewed by the District Court and ARA's position on these matters could be determined prior to approval rather than subsequent.

7. *Conclusion.*—Egypt News is at a loss to understand how the proposed Final Judgment benefits anyone but ARA. At the time that ARA was under a Federal Trade Commission order not to acquire any more wholesale operations, they are being allowed to do just that. At a time that the Federal Trade Commission has taken a position that ARA, because of their acquisitions and activities, was becoming a monopoly in the periodical and paperback business which warranted Government intervention, ARA is allowed to continue on that road to a monopoly position in the industry by being able to maintain substantial business in the three markets which the Government contends was illegally acquired. By allowing ARA credit for businesss which they willfully abandoned, or which they lost through competition, appears to give ARA substantial benefits which have no rhyme, reason or logic to the purposes of the proceeding which was brought by the Government. Eygpt News would request that that United States District Court not approve the proposed Final Judgement and order the matter to trial, with a view toward complete divestiture of the St. Louis market by ARA.

Respectfully submitted.

Bernard Edelman No. 20904,

Attorney for Egypt News, Inc., 77001 Forsyth, Suite 560, Clayton, Missouri 63105, 863–4654.

Certificate of Service

The undersigned certifies that a complete copy of this instrument was served upon the following:

Charles McConachie, Chief, Consumer Affairs Section, Anti-trust Division, United States Department of Justice, Washington, D.C. 20530.

Honorable James Meredith, Judge, United States District Court, 1114 Market Street, St. Louis, Missouri 63101.

William Kolasky, Attorney at Law, 1666 K Street, NW., Washington, D.C. 20006.

by enclosing the same in envelopes addressed to the foregoing with first class postage fully prepaid and by depositing same in a U.S. mailbox at Clayton, Missouri, on the 31st day of May 1979.

Bernard Edelman.

[FR Doc. 79-21957 Filed 7-16-79; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

Federal Advisory Committee on Immigration and Naturalization; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Meeting.

SUMMARY: This notice announces the meeting of the Federal Advisory Committee on Immigration and Naturalization to be held in New York, NY, on August 2–3, 1979.

FOR FURTHER INFORMATION CONTACT: Paul Rogers, Special Assistant to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633–2331.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Federal Advisory Committee on Immigration and Naturalization. (All Sub-Committees will have work sessions on August 2, 1979, from 4:00 p.m. to 7:00 p.m., prior to

commencement of the formal Federal Advisory Committee meeting.) The meeting will start at 8:30 a.m. to 5:30 p.m., on Friday, August 3, 1979, at the Ramada Inn Hotel, located at 8th Avenue and 48th Street, New York, NY, 10019 telephone 212/581-7000.

Federal Advisory Committee Agenda

Sub-Committee Meeting—August 2, 1979, 4:00 p.m. to 7:00 p.m.
FAC Meeting—August 3, 1979, 8:30 a.m. to 5:30 p.m.
I. Call to Order, 8:30 a.m.
II. Roll Call, 8:40 a.m.
III. Welcoming Remarks by Eastern Regional Commissioner Stanley E. McKinley, 8:50 a.m.
Introduction of New York Immigration District Director George Vician.
IV. Opening Remarks by Commissioner Leonel J. Castillo, 9:30 a.m.
V. Review of Agenda Topics, 10:00 a.m.
VI. Reading of the Minutes, 10:15 a.m.
Break, 10:45 a.m.
VII. Staff Presentations—A. Refugee and Parole, Jack Rebsamen, Director, 11:00 a.m.
B. Immigration Legislative Update, 11:30 a.m.
C. Anti-Smuggling, Humberto Moreno, Director, 1:15 p.m.
D. Select Commission, 1:45 p.m.
VIII. Public Commentary—IX. Sub-Committee Reports, 3:15 p.m.
X. Formal Recommendations to the Commissioner, 4:15 p.m.
XI. Meeting Adjourns, 5:30 p.m.

Attendance is open to the interested public on a space available basis only. Persons or groups wishing to attend the meeting or to make public commentary should address a letter to Mr. Paul Rogers at the address below:

Mr. Paul Rogers, Immigration and Naturalization Service, 425 I Street, N.W., Room 7100, Washington, DC 20536.

Dated: July 12, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79-22044 Filed 7-16-79; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-5371, 5371 A-F]

Amherst Coal Co.; Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 10, 1979 in response to a worker petition received on May 7, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Amherst Coal Company, Lundale, West Virginia. The investigation revealed that the petition was filed on behalf of workers at six mining sites and a preparation plant located in Logan County, West Virginia; the Lundale #4 mine, the Amherst #4h and #5 mines, the MacGregor Preparation Plant, the MacGregor #7 and #9 mines, and the Paragon mine. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average bi-weekly employment and hours worked at the Lundale #4 mine, Amherst #4h and #5 mines, the MacGregor Preparation Plant, MacGregor #7 and #9 mines, and the Paragon mine of the Amherst Coal Company did not decrease significantly in 1978 compared with 1977 and in the January–April period of 1979 compared with the same period of 1977. There is no immediate threat of separation of workers at these facilities.

Conclusion

After careful review, I determine that all workers at Lundale #4 mine, the Amherst #4h and #5 mines, the MacGregor Preparation Plant, the MacGregor #7 and #9 mines, and the Paragon mine of the Amherst Coal Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22030 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

Amstar Corp., et al.; 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 below. 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 July 27, 1979.

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 show below, not later than July 27, 1979.

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, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of July 1979.

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
Amstar Corp. (workers)	New York, N.Y.	July 2, 1979	June 18, 1979	TA-W-5719	Sugar and small amounts of artificial sweeteners. 1979
A. O. Smith Corp. (Steelworkers)	Milwaukee, Wis.	July 5, 1979	June 26, 1979	TA-W-5720	Automobile frames, truck frames, automobile control arms.
Bishop Mining Co. (UMWA)	Bishop, W. Va.	June 18, 1979	June 5, 1979	TA-W-5721	Coal mining.
Country Club Casuals Inc. (company).	Miami, Fla.	July 5, 1979	June 21, 1979	TA-W-5722	Ladies dresses and sportswear.
H. Freeman (ACTWU)	Philadelphia, Pa.	June 26, 1979	June 22, 1979	TA-W-5723	Men's suits, slacks, sportcoats (manufacturer)
Eastern Associated Coal Corp., Keystone No. 1 (UMWA).	Beckley W. Va.	June 15, 1979	June 5, 1979	TA-W-5724	Coal mining.
Eastern Associated Coal Corp., Keystone No. 2 and No. 3.	Beckley, W. Va.	June 15, 1979	June 5, 1979	TA-W-5725	Coal mining.
Hemco Coal Management Corp. (workers).	Charleston, W.Va.	July 2, 1979	June 23, 19799	TA-W-5726	Coal mining.
Little Falls Footwear Inc. <(workers).	St. Johnsville, N.Y.	July 2, 1979	June 28, 1979	TA-W-5727	Men's women's, children, slippers, and women's casuals.
Robert Reis & Co. (company)	New York, N.Y.	June 29, 1979	June 21, 1979	TA-W-5728	Salesmen and executive for Co. producing men's knitted sportswear and underwear.
Royal Coal Co. (UMWA)	Beckley W. Va.	June 15, 1979	June 5, 1979	TA-W-5729	Cleaning of coal.
Singer Co. (IUE)	Elizabeth, N.J.	July 5, 1979	June 27, 1979	TA-W-5730	Domestic and industrial sewing machines
Timex Corp. (IUE)	Somerset, N.J.	June 29, 1979	June 25, 1979	TA-W-5731	Liquid crystal display.
United Pocahontas Coal Co., Algona Facility (UMWA).	McDowell County, W. Va.	June 15, 1979	June 5, 1979	TA-W-5732	Coal preparation.
Valli Fashions Co. Inc. (company)	Hoboken, N.J.	June 29, 1979	June 25, 1979	TA-W-5733	Ladies coats (contractor).

[FR Doc. 79-22031 Filed 7-16-79; 8:45 am]

BILLING CODE 5410-28-M

[TA-W-5574]

ATP Processors, Ltd.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing dyed print and finished fabric at ATP Processing, Ltd., Paterson, New Jersey. The investigation revealed that the correct name of the company is ATP Processors, Ltd., and that the company produces dyed, printed and finished fabric. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

ATP Processors, Ltd., was formed in July 1977. Average quarterly employment has increasd in every quarter from the third quarter of 1977 through the second quarter of 1979. There is no immediate threat of separations at the plant.

Conclusion

After careful review, I determine that all workers of ATP Processors, Ltd., Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22032 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5469]

C & P Coal Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979, in response to a worker petition received on May 21, 1979, which was filed on behalf of workers and former workers mining coal at the C & P Coal Company, Incorporated, Wharncliffe, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

As a contracting mine operator, the C & P Coal Company digs and removes coal from subterranean mines owned by a larger coal company for a fee that is based on tonnage delivered. C & P operated the #2 Mine in Mingo County, West Virginia until December 1978. Sources stated that the #2 mine was closed because the coal seam had become so small that it could no longer be mined with conventional equipment. In conjunction with the phasing out of mining operations at the #2 Mine, C & P obtained a permit and began working another mine called the #1 Mine, also located in Mingo County, West Virginia. Production at the #1 Mine began in September 1978 and has replaced production from the #2 Mine. Total production of metallurgical coal at C & P increased in 1978 compared to 1977 despite the fact that the mine was closed from December 9, 1977 to March 27, 1978 due to a nationwide strike by

mine workers. Production also increased in the first three months of 1979 compared to a comparable period.

Conclusion

After careful review, I determine that all workers of the C & P Coal Company, Incorporated, Wharncliffe, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22033 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

Cowden Mfg. Co., et al.; 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 July 27, 1979.

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 July 27, 1979.

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, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of July, 1979.

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
Cowden Mfg. Co. (Teamsters)	Stanford, Ky	7/9/79	6/13/79	TA-W-5734	Jeans.
Henry I. Siegel Co., Inc. (company).	Bruceton, Tenn	6/29/79	6/26/79	TA-W-5735	Men's suit coats, and sport coats.
Henry I. Siegel Co., Inc. (company).	Tiptonville, Tenn	6/29/79	6/26/79	TA-W-5736	Dress vests, and denim vests; dungaree jackets, and dress coats, and jackets.
Henry I. Siegel Co., Inc. (workers)	Verona, Miss	6/29/79	6/26/79	TA-W-5737	Men's and women's blazers, sport coats, and suit coats.
Isaacson Steel Co. (IWU)	Seattle, Wash	7/9/79	5/3/79	TA-W-5738	Structural steel fabricators, buildings, bridges.
Jafree Shirt Co., Inc. (company)	Wytheville, Va	6/29/79	6/20/79	TA-W-5739	Contractor for men's shirts (dress and sports).
Just Mort (ILGWU)	New York, N.Y	7/5/79	6/28/79	TA-W-5740	Ladies dresses.
Raoul, Inc. (ILGWU)	New York, N.Y	7/5/79	6/28/79	TA-W-5741	Ladies dresses.

[FR Doc. 79-22034 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5458 & 5467]

King Powellton Mining, Inc. and XCello Corp.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 24, 1979 in response to a worker petition received on May 16, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at King Powellton Mining, Incorporated and XCello Corporation, Kingston, West Virginia. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

With respect to workers of King Powellton Mining, Incorporated, the findings of the investigation indicate that King Powellton Mining, Incorporated's sales and production increased during the period April through November 1978 compared with the same period in 1977, increased during January though April 1979 compared with the same period in 1977 and increased during January though April 1977 compared with that period in 1976. (Comparison periods were selected to exclude the December 7, 1977 through March 27, 1978 strike by the United Mine Workers of America). Closing of one mine in early 1979 resulted from the mine's declining productivity.

With respect to workers of XCello Corporation, the investigation revealed

XCello sells most of its coal as metallurgical coal through King Powellton Mining, Incorporated. Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal at XCello Corporation.

The Department conducted a survey of King Powellton's primary and secondry customers for their purchases of coal and coke. Most respondents reported they did not increase purchases of imported coal or coke and decrease purchases of domestic coal or coke in 1978 compared with 1977.

Conclusion

After careful review, I determine that all workers of King Powellton Mining, Incorporated and XCello Corporation, Kingston, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22035 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5415]

S. Rothschild and Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board, International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's and juniors' outerwear at S. Rothschild and Company, Incorporated, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

A certification applicable to the petitioning group of workers was issued on March 31, 1977 (TA-W-1189). That certification remained in effect until March 31, 1979—two years from its date of issuance.

Total company sales, in value, increased at S. Rothschild and Company, Incorporated in January-May 1979 versus January-May 1978.

Total production at the Philadelphia plant, in quantity, increased at S. Rothschild and Company, Incorporated in January-May 1979 versus January-May 1978.

Conclusion

After careful review, I determine that all workers of S. Rothschild and Company, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22036 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5526]

Waldo Shoe Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 29, 1979 which was filed on behalf of workers and former workers producing non-rubber footwear at Waldo Shoe Corporation, Belfast, Maine. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production by Waldo Shoe Corporation, Belfast, Maine increased in quantity and value in 1978 from 1977 and during January-May 1979 compared to January-May 1978. Compared to the same quarter of the previous year, sales and production by Waldo increased from the third quarter of 1978 through the first quarter of 1979.

Sales by Dorson-Fleisher, Inc., Waldo's parent firm, increased in quantity in 1978 from 1977 and during January-May 1979 compared to January-May 1978.

Conclusion

After careful review, I determine that all workers of Waldo Shoe Corporation, Belfast, Maine are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22037 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Federal Committee on Apprenticeship; Public Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct the following open meetings at The Center for Vocational Eduction, The Ohio State University 1960 Kenny Road Columbus, Ohio 43210, as shown below:

(a) FCA Subcommittee on Equal Aprenticeship Opportunity: Date: August 1, 1979. Time: 9:00 a.m.-11:00 a.m.

(b) FCA Subcommittee on Research: Date: August 1, 1979. Time: 1:00 p.m.-3:30 p.m.

The agenda for the meeting on EAO will include:

(1) Certificates of Merit (Sec. 213 of Equal Employment Opportunity Executive Order 11246 as amended by Executive Order 11375).

(2) Apprenticeship Information Center—Status Report.

(3) Women's Bureau/Bureau of Apprenticeship and Training Activities' Report.

(4) Briefing on Sex Equity—Vocational Education.

The agenda for the meeting on Research will cover:

(1) Overview of vocational education activities as they relate to apprenticeship, with particular emphasis on activity at Ohio State University.

(2) Formulation of the agenda for the next full FCA meeting which will focus on the theme: "Vocational Education in Apprenticeship."

(3) Suggestions for research, demonstration and evaluation plans for apprenticeship in FY 1980.

The agendas are subject to change due to time constraints and priority items which may come before the Subcommittees between the time of this publication and scheduled date of the Subcommittees meetings.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agendas may do so by furninshing it to the Executive Secretary at any time prior to the meetings. Thirty copies are needed for the members and for the inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at these meetings should so indicate in a written statement, also the nature of the intended presentation and amount of time needed. The Chairpersons will announce at the beginning of the meetings the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows: Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street, NW. (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of July 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 79-22079 Filed 7-16-79; 8:45 am]

BILLING CODE 4510-30-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 16017; SR-Amex-79-7; etc.]

American Stock Exchange, Inc., et al.; Order Approving Proposed Rules Changes

July 11, 1979.

In the matter of: American Stock Exchange, Inc. (SR-Amex-79-7), 86 Trinity Place, New York, New York 10006; Chicago Board Options Exchange, Incorporated (SR-CBOE-79-5), LaSalle at Jackson, Chicago, Illinois 60604; Midwest Stock Exchange, Incorporated (SR-MSE-79-12), 120 South LaSalle Street, Chicago, Illinois 60603; Pacific Stock Exchange Incorporated (SR-PSE-79-7), 618 South Spring Street, Los Angeles, California 90014; Philadelphia Stock Exchange, Inc. (SR-Phlx-79-6), 17th Street & Stock Exchange Place, Philadelphia, Pennsylvania 19103.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder notice is hereby given that the American Stock Exchange, Inc. ("Amex"); the Chicago Board Options Exchange, Incorporated ("CBOE"); the Midwest Stock Exchange, Incorporated ("MSE"); the Pacific Stock Exchange Incorporated ("PSE"); and the Philadelphia Stock Exchange, Incorporated ("Phlx") (collectively referred to as "the options exchanges") filed with the Commission copies of proposed rules changes to permit the completion of a trading rotation in a class of options after the normal 4:10 p.m. New York time close of options trading if (a) the rotation is initiated in response to unusual market conditions,[1] and authorized by two floor officials; and (b) notice of the rotation is publicly disseminated no later than the commencement of the rotation or 4:00 p.m. New York time, whichever is earlier.

All the exchanges will notify member firms of an unusual market trading rotation through an announcement on the trading floor. The exchanges also will notify the major news services of unusual market trading rotations. Further, in the case of multiply-traded options classes, the exchange intending to commence a rotation which may extend beyond 4:10 p.m. New York time will notify, by telephone, any other exchange which trades the options class.[2]

The purpose of the proposed rules changes is to provide each options exchange with authority to complete a trading rotation after the exchange's normal trading hours, rather than terminating the rotation before it is completed, provided the rotation was already in process prior to 4:10 p.m. New York time.

Such a procedure is needed in unusual market situations involving a development near the close of trading, such as a major news announcement, which causes sharp movement in the price of the security underlying an options class. Such a movement in the underlying stock may create a dramatic increase in the trading volume of the options class and a corresponding change in the options premium. When such a development occurs near the close of trading, it is difficult for an exchange to conduct a complete rotation prior to the normal closing time. The new rules will permit an options exchange to complete a rotation in such a situation and will assist in the maintenance of a fair and orderly market.

Notice of the proposed rules changes together with the terms of substance of the proposed rules changes was given by publication of Commission Releases (Securities Exchange Act Release Nos. 34-15875, May 25, 1979; 34-15876, May 25, 1979; 34-15877, May 25, 1979; 34-15878, May 25, 1979; and 34-15880, May 29, 1979) and by publication in the **Federal Register** (44 FR 32493, June 6, 1979; 44 FR 32494, June 6, 1979; 44 FR 32499, June 6, 1979; 44 FR 32500, June 6, 1979; and 44 FR 32501, June 6, 1979). No public comments were received.

It appears that the proposed rule change will protect investors and the public interest and provide a means for maintaining fair and orderly markets under unusual conditions by permitting the completion, after normal trading hours, of a rotation in progress at the market close. Consequently, the Commission finds that the proposed rules changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rules changes be, and it hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22009 Filed 7-16-79; 8:45 am]

BILLING CODE 8010-01-M

[1] The CBOE and MSE proposed rules changes refer to trading rotations commenced after the declaration of a "fast market."

[2] The Commission understands that the options exchanges and the Options Price Reporting Authority ("OPRA") are developing proposals for changes in their computer systems which would permit dissemination of certain types of market condition data, including information about trading halts, split openings and options classes currently in rotation. We anticipate that the exchanges will actively pursue this improvement in OPRA, and we will monitor closely OPRA's progress toward effectively disseminating such market condition information.

[File No. 500-1]

Teltronics Services, Inc.; Order of Suspension of trading

July 6, 1979.

It appearing to the Securities and Exchange Commission that the above-

named company has failed to file with the Commission its Annual Report on Form 10–K for its fiscal year ended December 31, 1978 and a Form 10–Q for the period ending March 31, 1979 and that, as a result, there is a lack of current, adequate and accurate public information about the operations and financial condition of the above-named company, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of the above-named company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:00 am (EST) on July 6, 1979 through July 15, 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22010 Filed 7-16-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Form 990, Return of Organization Exempt From Income Tax; Adoption of Proposed Revision

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of adoption of revised Form 990, Return of Organization Exempt from Income Tax, for calendar year 1979.

SUMMARY: A notice announcing and soliciting comments from the public on a proposed revision of Form 990 and a copy of the proposed form were published in the **Federal Register** on October 31, 1978 (43 FR 50769). After consideration of the comments received, the Internal Revenue Service has decided to adopt the proposed revision in substantially the same form as published in the **Federal Register** on the above date. Further changes to the 1979 form will be minimal unless tax legislation that needs to be embodied in the return is enacted or unforeseen problems in tax administration that would result from the use of the return come to light. The basic Form 990 the Service intends to use for tax years ending on or after December 31, 1979, is printed following this notice. Immediately following that are draft instructions for the revised form.

The adopted form incorporates two significant revisions to the proposed form previously published in the **Federal Register**. As before, smaller organizations will not be required to complete all parts of the return, but this category of filers has been expanded substantially by a change in the applicable income level. The prior dividing line was $25,000 of "gross receipts", whereas the new $25,000 cutoff is a net income figure computed taking into account expenses attributable to rental property, expenses of special fundraising events and activities, cost of merchandise sold and cost or other basis and sales expense of assets sold. This last item, for example, means that only the net gain from the sale of investments rather than the gross amount received is to be taken into account in determining whether the filer is above or below the $25,000 cutoff.

The other significant change is that these smaller organizations will have to complete all of Part I (other than the two optional columns to report restricted and unrestricted funds) rather than only the items that were shaded on the published proposed form. These organizations will also be required to report beginning and end of year figures for total liabilities and (except for organizations that use fund accounting) retained earnings or accumulated income. It was determined to be essential for both large and small organizations to provide this financial data.

One other less significant change incorporated in the adopted form is that organizations will no longer be required to determine and report the aggregate fair market value of their assets at the end of the reporting period.

States are encouraged to use this return as the basic form satisfying State reporting requirements. Any additional information needed by a particular State could be provided by that State's own supplemental schedules and by requiring every filer to complete all parts of the Form 990 to be filed with the State. That additional information still would not be required to be reported on the Form 990 filed with the Service.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the **Federal Register** for Wednesday, May 24, 1978.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Dopkin, Acting Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington D.C. 20224. Telephone: 202–566–6150 (not a toll-free telephone number).

Dated: June 28, 1979.

Jerome Kurtz,

Commissioner.

BILLING CODE 4830-01-M

Form **990**
Department of the Treasury
Internal Revenue Service

Return of Organization Exempt from Income Tax

Under section 501(c) (except private foundation), 501(e) or (f) of the Internal Revenue Code

1979

For the calendar year 1979, or fiscal year beginning , 1979, and ending , 19

Use IRS label. Otherwise, please print or type.

Name of organization

Address (number and street)

City or town, State, and ZIP code

A Employer identification number (see instructions)

B If exemption application is pending check here . . . . . ▶ ☐

C If addressed changed check here . . ▶ ☐

D Check applicable box—Exempt under section ▶ ☐ 501(c) ( ) (insert number), ☐ 501(e) OR ☐ 501(f).

E Is this a group return (see instruction K) filed for affiliates? . . ☐ Yes ☐ No
Is this a separate return filed by a group affiliate? . . . . . ☐ Yes ☐ No

If "Yes" to either, give four-digit group exemption number (GEN) ▶

NOTE: ☐ Check here if gross receipts are normally not more than $10,000 (see instruction T) and do not complete the rest of this return (see instruction C).
☐ Check here if gross receipts are normally more than $10,000 and line 12 is $25,000 or less. Complete Parts I, II, IV, and VI and only the shaded items in Parts III and V (see instruction D). If line 12 is more than $25,000 you must complete the entire return.

All section 501(c)(3) organizations must also complete Schedule A (Form 990) and attach it to this return.

Part I Analysis of Revenue, Expenses and Fund Balances

		Total	These columns are strictly optional—see instructions: Restricted	Unrestricted
Revenue	1 Contributions, gifts, grants and similar amounts received:			
	(a) Directly from the public			
	(b) Through professional fundraisers			
	(c) As allotments from fundraising organizations			
	(d) As government grants			
	(e) Other			
	(f) Total (add lines 1(a) through 1(e)) (attach schedule—see instructions)			
	2 Membership dues and assessments			
	3 Interest			
	4 Dividends			
	5 (a) Gross rents			
	(b) Minus: Rental expenses			
	(c) Net rental income			
	6 Royalties			
	7 (a) Gross amount received from sale of assets other than inventory			
	(b) Minus: Cost or other basis and sales expenses			
	(c) Net gain/loss (attach schedule)			
	8 Special fundraising events and activities:			

Type of event	Receipts	Expenses

	(a) Total receipts			
	(b) Total expenses			
	(c) Net income (line 8(a) minus line 8(b))			
	9 (a) Gross sales minus returns and allowances			
	(b) Minus: Cost of goods sold (attach schedule)			
	(c) Gross profit (loss)			
	10 Program service revenue (from Part II, line (f))			
	11 Other revenue (from Part II, line (g))			
	12 Total revenue (add lines 1(f), 2, 3, 4, 5(c), 6, 7(c), 8(c), 9(c), 10 and 11)			
Expenses	13 Fundraising (from line 40(B))			
	14 Program services (from line 40(C))			
	15 Management and general (from line 40(D))			
	16 Total expenses (add lines 13 through 15)			
Fund Balances	17 Excess (deficit) for the year (subtract line 16 from line 12)			
	18 Fund balances or net worth, beginning of year (from line 65(A))			
	19 Other changes in fund balances or net worth (attach explanation)			
	20 Fund balances or net worth, end of year (add lines 17, 18 and 19)			

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Part II Program Service Revenue and Other Revenue

	Program service revenue	Other revenue
(a)		
(b)		
(c)		
(d)		
(e)		
(f) Total program service revenue (Enter here and on line 10)		
(g) Total other revenue (Enter here and on line 11)		

Part III Allocation of Expenses by Function

NOTE: If line 12, Part I is $25,000 or less you should complete only the line items for columns (A) and (B), Part III. If line 12 is more than $25,000 you must complete columns (A), (B), (C), and (D).

Expenses	Note: *Do not include amounts reported on line 5(b), 7(b), 8(b) or 9(b) of Part I.*	(A) Total	(B) Fundraising	(C) Program services	(D) Management and general
	21 Contributions, gifts, grants and similar amounts awarded (attach schedule)				
	22 Benefits disbursed to or for members				
	23 Compensation of officers, directors and trustees				
	24 Other salaries and wages				
	25 Pension plan contributions				
	26 Other employee benefits				
	27 Payroll taxes				
	28 Fees for fundraising				
	29 Other professional services				
	30 Interest				
	31 Occupancy				
	32 Rental and maintenance of equipment				
	33 Printing and postage				
	34 Telephone				
	35 Supplies				
	36 Travel				
	37 Other expenses (itemize):				
	38 Total expenses before depreciation (add lines 21 through 37)				
	39 Depreciation, depletion, etc.				
	40 Grand total (add lines 38 and 39). Enter here and on lines 13 through 15				

Part IV List of Officers, Directors and Trustees (See Instructions)

(A) Name and address	(B) Title and time devoted to position	(C) Compensation	(D) Contributions to employee benefit plans	(E) Expense account and other allowances

Part V Balance Sheet

Assets	(A) Beginning of tax year	(B) End of tax year
41 Cash:		
(a) Savings and interest-bearing accounts		
(b) Other		
42 Accounts receivable ▶ ..... minus allowance for doubtful accounts ▶		
43 (a) Notes receivable (attach schedule) ▶ ..... minus allowance for doubtful accounts ▶		
(b) Loans to officers, directors and trustees (attach schedule)		
44 Inventories		
45 Government obligations:		
(a) U.S. and instrumentalities		
(b) State and its subdivisions		
46 Investments in nongovernmental bonds, etc. (attach schedule)		
47 Investments in corporate stocks (attach schedule)		
48 Mortgage loans (number of loans ▶ .....)		
49 Other investments (attach schedule)		
50 Depreciable (depletable) assets (attach schedule):		
(a) Beginning assets ▶ ..... minus accumulated depreciation ▶		
(b) Ending assets ▶ ..... minus accumulated depreciation ▶		
51 Land		
52 Other assets (attach schedule)		
Liabilities		
54 Accounts payable		
55 Contributions, gifts, grants, etc., payable		
56 Bonds and notes payable (attach schedule)		
57 Mortgages payable		
58 Loans from officers, directors and trustees (attach schedule)		
59 Other liabilities (attach schedule)		

Fund Balances and Net Worth

Note: *You must complete this section of the balance sheet based on the method of accounting you normally use. Please check either "Fund Accounting" or "All Others" and provide the information requested under the method you have checked.*

Fund Accounting	All Others		
Check here ▶ ☐	Check here ▶ ☐		
61 Current funds:			
(a) Unrestricted			
(b) Restricted			
62 Land, buildings and equipment	Capital stock or trust principal		
63 Endowment and similar funds	Paid-in or capital surplus		
64 Other			
65 Total fund balances	Total net worth		
66 Total liabilities and fund balances/net worth			

263–248–1

Part VI Statements Regarding Certain Activities

	Yes	No
67 Describe each significant program service activity and indicate the expenses paid or incurred: (a) (b) (c) (d) — Expenses		
68 Have you engaged in any activities not previously reported to the Internal Revenue Service? If "Yes," attach a detailed description of such activities.		
69 Have any changes not previously reported to the Internal Revenue Service been made in your organizing or governing documents? If "Yes," attach a copy of the changes.		
70 (a) Did you have unrelated business gross income of $1,000 or more during the year covered by this return?		
(b) Have you filed a tax return on Form 990–T, Exempt Organization Business Income Tax Return, for this year?		
(c) If you have gross sales or receipts from business activities not reported on Form 990–T, attach a statement explaining your reason for not reporting them on Form 990–T.		
71 Was there a liquidation, dissolution, termination, or substantial contraction during the year (see instructions)? If "Yes," attach a schedule of the dispositions for the year showing type of assets disposed of, the dates disposed, the cost or other basis, the fair market value on dates of disposition and the names and addresses of the recipients of the assets distributed.		
72 Are you related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization (see instructions)? If "Yes," enter the name of organization ▶ ..... and check whether it is ☐ exempt **OR** ☐ nonexempt.		
73 (a) Enter amount expended, if any, directly or indirectly for section 527(e)(2) political purposes		
(b) Did you file Form 1120–POL, U.S. Income Tax Return of Certain Political Organizations, for this year?		
74 Did your organization receive donated services or the use of facilities or equipment at no charge or at substantially less than fair rental value? If "Yes," you may, if you choose, indicate the value of such services or usage here. Do not include this amount elsewhere on this return ▶		
The following statements should be completed ONLY by the organizations indicated.		
75 *Section 501(c)(5) or (6) organizations.*—Did you expend any amounts in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters or referendums (see instructions and section 1.162–20(c) of the Income Tax Regs.)? If "Yes," enter the total amount expended for this purpose		
76 *Section 501(c)(7) organizations.*—Enter amount of: (a) Initiation fees and capital contributions included on line 12		
(b) Gross receipts from general public from use of club facilities included in line 12 (see instructions)		
(c) Does your governing instrument or any written policy statement provide for discrimination against any person because of race, color or religion?		
77 *Section 501(c)(12) organizations.*—Enter: (a) The total amount of gross income received from members or shareholders		
(b) The total amount of gross income received from other sources (do not net amounts due or paid to other sources against amounts due or received from them)		
78 *Public interest law firms.*—Attach information required by specific instruction for line 78.		
79 The books are in care of ▶ ..... Telephone No. ▶ ..... Located at ▶		

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer — Date — ▶ Title

Paid Preparer's Information

Preparer's signature ▶

Firm's name (or yours, if self-employed), address and Zip Code ▶ — Date ▶

☆ U.S. GOVERNMENT PRINTING OFFICE : 1979—O-263-248

BILLING CODE 4830-01-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Instructions for Form 990—Return of Organization Exempt From Income Tax

Under Section 501(c) (Except Private Foundation), 501(e) or (f) of the Internal Revenue Code

(Section references are to the Internal Revenue Code, unless otherwise indicated)

General Instructions—Exempt Organizations (Under Section 6033)

Rounding Off to Whole-Dollar Amounts

Money items may be shown as whole-dollar amounts by eliminating amounts less than 50 cents, and increasing amounts from 50 cents through 99 cents to the next higher dollar.

Use of Form 990 to Satisfy State Reporting Requirements.

Some States may accept a copy of Form 990 in lieu of their own financial report form or may accept Form 990 together with certain additional schedules. You should contact the appropriate State officials to determine the filing requirements in particular States.

A. *Who Must File Form 990.*—An annual return on this form is required of organizations exempt from tax under section 501(a) of the Code (including foreign organizations and cooperative service organizations described in sections 501 (e) and (f)) except the following:

(1) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (such as a men's or women's organization, religious school, mission society, or youth group).

(2) A school below college level affiliated with a church or operated by a religious order, even though it is not an integrated auxiliary of a church.

(3) A mission society sponsored by or affiliated with one or more churches or church denominations, if more than one-half of the activities of that society are conducted in, or directed at persons in, foreign countries.

(4) An exclusively religious activity of any religious order.

(5) For tax years ending on or after December 31, 1976, an organization (other than a private foundation as described in (8) below) that normally has gross receipts in each taxable year of not more than $10,000. (See general instructions C and T.)

(6) A State institution whose income is excluded from gross income under section 115.

(7) An organization described in section 501(c)(1). Section 501(c)(1) organizations are corporations organized under an Act of Congress that are:

(a) instrumentalities of the United States, and;

(b) exempt from Federal income taxes (under such Acts as amended and supplemented).

(8) A private foundation exempt under section 501(c)(3) and described in section 509(a). (Required to file Form 990–PF, Return of Private Foundation Exempt from Income Tax.)

(9) A black lung benefit trust described in section 501(c)(21). (Required to file Form 990–BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons.)

(10) A stock bonus, pension, or profit-sharing trust which qualifies under section 401. (See Form 5500, Annual Return/Report for Employee Benefit Plan.)

(11) A religious or apostolic organization described in section 501(d). (Required to file Form 1065, U.S. Partnership Return of Income.)

Return When Exempt Status Not Established.—If your application for exemption is pending with the Internal Revenue Service and you claim exempt status under section 501(a) prior to a determination by the Service, you should file the appropriate return. An organization acknowledging that it is a private foundation should file Form 990–PF. In either case be sure to check the block on page 1 of the return to indicate that the exemption application is pending.

B. *Section 501(c)(3) Organizations.*—Section 501(c)(3) organizations (other than private foundations filing Form 990–PF) must also complete Schedule A (Form 990), Organization Exempt Under 501(c)(3) Supplementary Information.

C. *Filing Requirements Tests.*—You are exempted from filing Form 990 if your gross receipts are normally not more than $10,000. Your gross receipts are the sum of lines 1(f), 2, 3, 4, 5(a), 6, 7(a), 8(a), 9(a), 10, and 11 of Part I. (See instruction T for a narrative description of gross receipts.) If you meet this exception we ask that you fill in only the heading of Form 990 and check the first box in the note above Part I. Send this information form to the service center for your area. This will help us keep our records current and we won't have to contact you later asking why a return wasn't filed.

D. *Shortened Return Format for Small Organizations.*—If the amount reported on line 12 of Part I (total revenue) is $25,000 or less and your gross receipts (see instruction C for computation) are normally more than $10,000, you should complete only the shaded items in Parts III and V and all of Parts I (except for lines 14 and 15), II, IV, and VI. Be sure to check the second box in the note above Part I, Form 990, so that we know that you didn't have to complete all items, and you won't be subject to a penalty for an incomplete return.

E. *Complete Returns.*—All line items on Form 990 must be completed unless the organization reports total revenue of $25,000 or less on line 12 of Part I. (If this exception applies, refer to instruction D.) There are items on Form 990 which may not be applicable to you, but for which we need an answer even if it is negative.

A penalty of $10 a day for failure to file a return under section 6652(d) (see instruction J below) may be charged if an incomplete return is submitted. If one or more line items on the return are not filled in we may consider the return incomplete or contact you for the missing information. Therefore, we urge that you be sure to make an entry in each part of the form, even those that do not apply to you. If a part or line item does not apply enter "N/A" (not applicable), or if a dollar amount is zero enter"—0—." Please make sure your return is complete before it is submitted. (See Rev. Rul. 77–152, 1977–1 C.B. 400.)

F. *Accounting Period.*—The return must be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, the return must be on the basis of the calendar year.

A group return (see instruction K below) must be on the basis of the established annual accounting period of the central organization.

To change your accounting period, file Form 1128, Application for Change in Accounting Period.

G. *Period To Be Covered by Return.*—File the 1979 return for the calendar year 1979 and fiscal years beginning in 1979. If the return is for a fiscal year, fill in the taxable year space at the top of the return.

H. *Accounting Methods.*—Gross income, receipts and disbursements must be computed in accordance with the method of accounting regularly used by the organization in maintaining its books and records, unless otherwise specified in the instructions.

I. *When and Where To File.*—This return must be filed on or before the 15th day of the fifth month following the close of the accounting period.

Requests for extension of time to file may be made by filing Form 2758, Application for Extension of Time to File.

In case of a complete liquidation, dissolution or termination, file the return on or before the 15th day of the fifth month following complete liquidation, dissolution or termination.

If the principal office of the organization is located in—	Send the return to—
Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, or Vermont.	Internal Revenue Service Center, Andover, Mass. 05501
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, or Tennessee.	Internal Revenue Service Center, Atlanta, Ga. 31101
Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, or Wyoming.	Internal Revenue Service Center, Austin, Tex. 73301
Indiana, Kentucky, Michigan, Ohio, or West Virginia.	Internal Revenue Service Center, Cincinnati, Ohio 45999
Arizona, California, Hawaii, Nevada, or Utah.	Internal Revenue Service Center, Fresno, Calif. 93888
Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, or Wisconsin.	Internal Revenue Service Center, Ogden, Utah 84201
Any other State, the District of Columbia, any U.S. possession or foreign country.	Internal Revenue Service Center, Philadelphia, Pa. 19255

J. *Penalty for Failure To File on Time.*—If an organization fails to file the return on or before the due date, section 6652(d) imposes a penalty of $10 for each day the return is late (not to exceed $5,000), unless it can be shown that the failure was due to reasonable cause.

The Internal Revenue Service may make written demand that the deliquent return be filed within a reasonable time after notice of mailing of the demand. The person failing to file the delinquent return (unless it can be shown to be due to reasonable cause) will have to pay $10 for each day (not to exceed $5,000) after the period expires. If more than one person is liable for failure to file the delinquent return, all such persons shall be jointly and severally liable with respect to such failure. (See section 6652(d).)

There are penalties for willful failure to file and for filing fraudulent returns and statements. (See sections 7203, 7206, and 7207.)

K. *Group Return.*—A group return may be filed by a central, parent, or like organization for two or more local organizations, none of which are private foundations, provided the local organizations are: (a) affiliated with the central organization at the close of the central organization's annual accounting period; (b) subject to the general supervision or control of the central organization; and (c) exempt from tax under a group exemption letter which is currently in effect. Each local organization must annually authorize the central organization in writing to include it in the group return and must also annually file with the central organization a declaration, under penalty of perjury, of the truth and completeness of the authorization and statements required by this form. The group return is in addition to the separate return of the central organization but instead of separate returns by the local organizations included in the group return. The central organization must file a separate return for itself and may not be included in the group return. Attach to the group return schedules showing separately: (a) the total number, names, addresses, and employer identification numbers of the local organizations included; and (b) the same information for those not included therein.

If no local organization included in the group return has more than $25,000 of total revenue (line 12, Part I), a group return may be prepared in accordance with general instruction D.

Receipts by a central organization from organizations included in a group return need not be itemized in the central organization's separate return.

The four-digit group exemption number required in block E, page 1 of the return, is not to be confused with the nine-digit employer identification number (EIN) required in block A in the heading of the return.

L. *Public Inspection of Form 990.*—The information reported on or with Form 990, including all attachments other than the list of contributors required with respect to line 1(f), Part I, will be made available for public inspection under section 6104(b). This applies both to information required by the form or instructions and to information furnished voluntarily.

The forms and attachments should be of such quality that they can be reproduced photographically.

M. *Signature and Verification.*—The return must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other corporate officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign any return which he or she is required to file on behalf of a corporation. If the return is filed on behalf of a trust, it must be signed by the duly authorized trustee or trustees. The return must also be signed by any outside person, firm, or corporation who was paid for preparing it. If prepared by a paid firm or corporation, it should be signed in the name of the firm or corporation. The verification is not required if the return is prepared by a regular full-time employee of the organization.

N. *Form 990-T.*—Every organization exempt from tax under section 501(a), except organizations described in section 501(c)(1), must file a return on Form 990-T, Exempt Organization Business Income Tax Return, if it has gross income of $1,000 or more derived from business which is unrelated to the purpose on which the organization's exemption is based. There are special rules for foreign organizations; organizations described in sections 501(c) (7), (9) and (19); unrelated debt-financed income; rents; and income from controlled subsidiaries.

Form 990-T, if required, must be filed on or before the 15th day of the 5th month following the close of the filer's taxable year. (Note: Employees' trusts described in section 401(a) must file the return one month earlier.

For further information, see the instructions for Form 990-T or obtain Publication 598, Tax on Unrelated Business Income of Exempt Organizations, from your local Internal Revenue Service office.

O. *Information Returns and Forms That May Be Required.—*

(1) Forms W-2 and W-3.—Employee's wage and tax statement, and transmittal of income and tax statements.

(2) Form W-2P.—Statement for recipients of annuities, pensions or retired pay.

(3) Form 1096.—Annual summary and transmittal of U.S. information returns.

(4) Form 5452.—Corporate report of non-taxable dividends.

(5) Forms 1099.—DIV, INT, MED, MISC, OID, PATR, and R.—Information returns for reporting certain dividends, interest, medical and health care payments, miscellaneous income, original issue discount, patronage dividends, and lump-sum distributions from profit-sharing and retirement plans.

P. *Attachments.*—If you need more space to provide the information required by any part or line item, attach separate sheets and use the same format and sequence as the printed form, but show your totals on the printed form. Be sure to put your name and employer identification number on these separate sheets and identify the part or line item they support.

Q. *Organizations Organized or Created in a Foreign Country or United States Possession.*—Amounts must be reported in United States currency (state conversion rate used) and information must be furnished in the English language. All items must be reported in the aggregate including amounts from both within and outside the United States.

R. *Liquidation, Dissolution, Termination, or Substantial Contraction.*—In the case of liquidation, dissolution, termination, or substantial contraction, organizations required to file this return must attach a statement to the return showing the nature of liquidation, dissolution, termination, or substantial contraction, and in the case of a complete liquidation of a corporation or termination or a trust, whether or not a final distribution of assets has been made and the date made. Such organizations will also attach a certified copy of the resolution or plan, if any, of liquidation, etc., together with all amendments or supplements not previously filed; a schedule indicating the names and addresses of all recipients of assets distributed in liquidation, dissolution, or substantial contraction; and the nature and fair market value of assets distributed to each such recipient.

If the organization ceases to exist, write *"Final Return"* at the top of the form.

Substantial Contraction.—The term "substantial contraction" includes any partial liquidation or any other significant disposition of assets (other than transfers for full and adequate consideration or distributions out of current income).

A "significant disposition of assets" does not include any disposition for a taxable year when the aggregate of:

(1) the dispositions for the taxable year, and

(2) where any disposition for the taxable year is part of a series of related dispositions made during prior taxable years, the total of the related dispositions made during such prior taxable years,

is less than 25 percent of the fair market value of the net assets of the organization at the beginning of the taxable year (in the case of (1) above) or at the beginning of the taxable year in which any of the series of related dispositions was made (in the case of (2) above).

The determination whether a significant disposition has occurred through a series of related dispositions will be determined from all the facts and circumstances of the particular case.

S. *Label—Name, Address, and Employer Identification Number.*—If you received a Form 990 from the Internal Revenue Service with a pre-addressed removable label, please affix the removable label to the name and address area of the return you file. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

You should have only one identification number. If you have more than one number and have not been advised which one to use, notify the appropriate Internal Revenue Service Center shown under instruction I above of the numbers you have, the name and address to which each number was assigned, and the address of your principal office. The Service will then advise you which number to use.

T. *Definitions:*

Gross Receipts for Purposes of This Return.—Gross receipts means the gross amount received by the organization during its annual accounting period from all sources

without reduction for any costs or expenses such as cost of goods sold or cost of assets sold, cost of operations, or expenses of earning, raising, or collecting such amounts. Thus, gross receipts includes but is not limited to (a) the gross amount received as contributions, gifts, grants and similar amounts without reduction for the expenses of raising and collecting such amounts; (b) the gross amount received as dues or assessments for members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts; (c) gross sales or receipts from business activities including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss from which may be required to be reported on Form 990–T; (d) the gross amount received from the sale of assets without reduction for the cost or other basis of the property and expense of sale; and (e) the gross amount received as investment income such as interest, dividends, rents and royalties. Instruction C indicates how to compute gross receipts.

Organizations Described in Section 501(c)(8).—In the case of organizations described in section 501(c)(8), where a local organization merely collects insurance premiums for the parent organization and forwards them to the parent without asserting any right to use them or otherwise derive benefit from their collection and the parent fully and currently reports the collection of those premiums, the premiums shall not be considered as gross receipts by the local organization. (Rev. Rul. 73–364, 1973–2 C.B. 393.)

Normally Not More Than $10,000.—For the purpose of instruction A(5) above, the annual gross receipts of an organization are normally not more than $10,000 if:

(1) in the case of an organization which has been in existence for one year or less, the organization has received, or donors have pledged to give, gross receipts of $15,000 or less during the first taxable year of the organization,

(2) in the case of an organization which has been in existence for more than one, but less than three years, the average of the gross receipts received by the organization in the first two taxable years is $12,000 or less, and

(3) in the case of an organization which has been in existence for three years or more, the average of the gross receipts received by the organization in the immediately preceding three years, including the year for which the return would be filed, is $10,000 or less.

Specific Instructions

Part I.—Analysis of Revenue, Expenses and Fund Balances

Part I has three columns headed "Total," "Restricted," and "Unrestricted." All organizations required to file this return must complete the Total column and provide the information required in the line items to the left of that column.

The Restricted and Unrestricted columns are strictly for the optional use of organizations that want to reflect any externally imposed restrictions on the use of contributions, gifts, grants, endowment income, and other amounts received in the current year. These columns also provide a summarized accounting for the utilization of restricted funds received in the current year or in any prior year. Externally imposed restrictions primarily refer to those designated by donors and grantors as to the use of their separate contributions and grants and, in the case of endowment gifts, the income earned by such funds. However, the term could also apply to restrictions imposed by any applicable State or Federal statute or regulations issued by an administrative agency of a State or the Federal Government. An appropriation of funds made at the discretion of the organization's governing body is not an externally imposed restriction.

The Restricted and Unrestricted columns are a breakdown of the information required to be reported in the Total column and the individual line items to the left of that column. Therefore, for any line item, the combined amount of the Restricted and Unrestricted columns should equal the figure reported in the Total column or to the left of that column.

When any externally imposed restriction on the use of funds lapses, the transfer to an unrestricted fund should be reported on line 19 of Part I by showing a decrease in the amount involved in the Restricted column and a corresponding increase in the Unrestricted column. These offsetting entries would result in a -0- entry in the Total column. The change would also be reflected in lines 61–64 of the fund balances section of the balance sheet in Part V of the return. Do not show the transfer on lines 1–12 of Part I since those lines are for reporting the initial receipt or accrual of restricted and unrestricted amounts.

Although the IRS does not require any organization to complete the Restricted and Unrestricted columns, an organization that does so should follow the above instructions. Also, an organization may complete only those line items in the Restricted and Unrestricted columns that it chooses to complete and not all the applicable lines in those two columns. Some States that accept Form 990 in lieu of their own reporting form may require that these columns be completed on the Form 990 filed as a substitute return with those States.

Line 1—Contributions, Gifts, Grants, and Similar Amounts Received

Lines 1 (a) through (e) are to be used to report amounts received as voluntary contributions: i.e., payments, or the portion of any payment for which the payer (donor) does not receive full and adequate consideration from the recipient (donee) organization. (In the case of grants see the discussion below under the heading *Grants equivalent to contributions.)*

All receipts representing contributions should be reported on lines 1 (a) through (e) and all expenses of raising contributions, AND ONLY THOSE EXPENSES, reported in column (B), Part III.

Income from special fundraising events and activities such as dinners, door-to-door sales of merchandise, raffles, carnivals, bingo games, and dances should be reported on line 8 rather than as a contribution received. However, when the amount received from a purchaser of these goods or services exceeds the value of the consideration furnished by the filer, the excess represents a contribution and should be reported as such. More specifically, some organizations seek support from the public through solicitation programs that are in part special fundraising events or activities and in part a solicitation for contributions. Thus, for example, an organization might advise potential contributors that each person who "contributed" a specified minimum amount would be entitled to a choice of several items of merchandise. Each person who paid that amount and chose to accept the merchandise would be both buying merchandise and making a contribution. The portion representing a contribution would be the difference between the amount paid to the soliciting organization and the fair market value of the merchandise furnished the contributor/purchaser. (See Revenue Ruling 67–246, 1967–2 C.B. 104, for a full discussion of this principle.) The income and related expenses of the "value received in return for value given" portion of such transactions should be reported on line 8. The primary purpose of such solicitations, of course, is not to sell the merchandise at its fair market value (even though this might produce a profit) but to receive the contributions. Therefore, all expenses except those attributable to the merchandise furnished the payer should be reported as fundraising expenses in column (B), Part III. When the recipient organization furnishes consideration having only nominal value, the entire amount received should be reported as a contribution and the costs involved reported as fundraising expenses in column (B). See the instructions for line 8 for more complete information about special fundraising events and activities. Also, see the instructions for line 2 for a discussion of when membership dues should be treated as contributions.

On lines 1 (a) through (f) do not report as a contribution received the value of any donated services rendered to the organization or similar items (such as the free use of facilities or equipment) for which a charitable contribution deduction is not allowable under section 170 of the Code. This applies whether the services or facilities are provided by individuals or organizations, including organizations that are exempt from tax. Filers that want such information reflected on the return may report the aggregate value of donated services and similar items in the block on line 74 of Part VI if certain conditions are met. See the instructions for line 74.

Attach an itemized schedule (not subject to public inspection) where money, securities, or other property of $5,000 or more is received directly or indirectly from one person during the year showing the name, address, date received, and the total amount received from each such person.

An organization described in section 501(c)(3) which meets the 33⅓ percent support test of the regulations under section 170(b)(1)(A)(vi) (without regard to whether

such organization otherwise qualifies as an organization described in section 170(b)(1)(A)) need only furnish the above information for a person contributing $5,000 or more if the contribution exceeds 2 percent of total contributions, bequests, and devises received by the organization during the year.

An organization need only report the name and address of the contributor where it has actual knowledge of the contributor. For instance, an organization need not require an employer which withholds contributions from the compensation of employees and pays over to the organization periodically the total of amounts withheld, to specify the amounts paid over with respect to a particular employee. In such case, unless the organization has actual knowledge that a particular employee gave more than $5,000 (and in excess of 2 percent if the above paragraph is applicable), the organization need report only the name and address of the employer and the total amount paid over.

In determining whether a person has contributed $5,000 or more, organizations need only aggregate gifts of $1,000 or more from such person. Separate and independent gifts need not be aggregated if less than $1,000. If a contribution is in the form of property where the fair market value is readily ascertainable (such as market quotations for securities), the description and fair market value must be submitted. If the fair market value of the property is not readily ascertainable, you may submit an estimated value.

The term "person" includes individuals, fiduciaries, partnerships, corporations, associations, trusts and exempt organizations.

Organizations described in section 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) that receive contributions or bequests to be used exclusively for the purposes described in sections 170(c)(4), 2055(a)(3), or 2522(a)(3), must attach a schedule with respect to all gifts which aggregate $1,000 or more from any one person showing (a) the name of the donor, (b) the amount of such contribution or bequest, (c) the specific purpose for which such contribution or bequest was given, and (d) the specific use to which such amount was put. In the case of an amount set aside for such purposes, the organization shall indicate the manner in which such amount is held (for instance, whether such amount is commingled with amounts held for other purposes). If the contribution or bequest was transferred to another organization, the schedule must include (a) the name of the transferee organization, (b) a description of the nature of such organization, and (c) a description of the relationship between the transferee and transferor organizations. Such organizations must also attach a statement showing the total dollar amount of contributions and bequests received for such purposes which are $1,000 or less.

Grants equivalent to contributions.—Only those grants that are equivalent to contributions should be reported on lines 1(a)–(e). As discussed in section 1.509(a)–3(g) of the Income Tax Regulations, a grant is normally made to encourage the grantee organization to carry on certain programs or activities in furtherance of its exempt purposes. It may contain certain terms and conditions imposed by the grantor to ensure that the grantee's programs or activities are conducted in a manner compatible with the grantor's own programs and policies. The use of the grant funds may be restricted to one or more specific projects or activities of the grantee, as, for example, a voter registration drive or the restoration of a historically significant building.

A grant would still be equivalent to a contribution if the grantee performs a service or produces a work product which only incidently benefits the grantor. (See the examples in the instructions for line 1(d).) However, if the terms of a grant require that a specific service, facility, or product be provided the grantor—the purpose of which is to serve the direct and immediate needs of that grantor rather than primarily to confer a direct benefit upon the general public or that segment of the public served by the organization in the case of organizations other than those described in section 501(c)(3)—such grant does not represent a contribution but a payment for services and/or rental income depending upon the specific facts. In general, any payment made primarily to enable the payer to realize or receive some economic or physical benefit as a result of the service, facility, or product obtained should not be treated as a contribution.

As an example, assume that a public interest organization described in section 501(c)(4) makes a grant to another organization to conduct a nationwide survey using a scientific sampling method. The purpose of the survey is to determine voter attitudes on various issues in which the grantor has an interest. The grantor plans to use the survey results in planning its program for the next three years. Under these circumstances the grant to the organization that will make the survey does not represent a contribution since conducting the survey and furnishing the survey report primarily serve the direct and immediate needs of the grantor and the benefit to the grantor would be more than incidental. Depending upon the facts and circumstances, the grantee should treat the grant funds as either program service revenue (line 10) or other revenue (line 11) when they are taken into account as income.

Research leading to the development of tangible products for the use or benefit of the payer should generally be treated as a service provided to serve the direct and immediate needs of the payer, whereas basic research or studies carried on in the physical or social sciences generally should not be so treated.

Non-cash contributions.—Contributions received in any form other than cash should be recorded at market value as of the date of contribution. For marketable securities registered and listed on a recognized securities exchange, market value generally is measured by the average of the highest and lowest quoted selling prices (or the mean between the bona fide bid and asked prices) on the contribution date. (See section 20.2031–1 of the Estate Tax Regulations for this general rule, exceptions, and special rules that may be applied to determine the value of contributed stocks and bonds.) Where market value is not readily ascertainable, an appraised value should be used.

The amount of any non-cash contribution which has an outstanding debt attached should be determined by subtracting the amount of the debt from the fair market value of the property. The asset should be recorded at its full value and the debt recorded as a liability in the books of account. CAUTION: For purposes of computing unrelated business taxable income, the basis of contributed property as determined under the normal basis rules of code sections 1011 through 1024 must be used to calculate depreciation, cost depletion, and any taxable gain or loss on the sale of an asset used in an unrelated trade or business.

1(a). *Contributions, etc. received directly from the public.*—Enter the total contributions, etc. received by the organization directly from the public. However, do not include any amounts received through a professional fundraiser which are to be reported on line 1(b).

Amounts to be reported here include contributions, gifts, grants, etc. received from individuals, trusts, corporations, estates and foundations. Also to be included are contributions and grants from public charities and other exempt organizations that are not fundraising organizations (see instructions for line 1(c)) or affiliates of the filing organization (see instructions for line 1(e)). To the extent that membership dues and assessments represent contributions from the public rather than affiliated organizations, they should be reported on line 1(a).

Amounts contributed by any commercial co-venturer should be reported on line 1(a) as a contribution received directly from the public. These are amounts due to the donee organization for letting an outside organization or individual use its name in a sales promotion campaign in which the donor advertises that it will contribute a certain dollar amount to the named donee organization for each unit of a particular product or service sold or for each occurrence of a specified type.

1(b). *Contributions, etc. received through professional fundraisers.*—Enter the amount of contributions received from the public through any solicitation campaign conducted for the organization by a professional fundraiser who is not an employee of that organization. Under such an arrangement the outside fundraiser typically utilizes its own mailing list and conducts the mail campaign (or has employees who solicit contributions in person or by telephone), is compensated for certain direct costs such as printing and mailing expenses and employee salaries and is paid a fee that may be based on the use of the mailing list and the net contributions received (total contributions reduced by mailing list charges and/or direct expenses).

Do not include on line 1(b) contributions received through solicitation campaigns conducted by the organization itself. This applies even if one or more outside fundraisers provide some editorial,

production, mailing, or other services as long as the solicitation campaign is actually conducted by the staff and/or members of the soliciting organization (that is, the organization that will report the contributions received on Form 990.)

1(c). *Contributions, etc. received as allotments from fundraising organizations.*—Enter the total of contributions received indirectly from the public through solicitation campaigns conducted by federated fundraising agencies (such as a United Way organization and certain sectarian federations) and similar fundraising organizations. These organizations conduct fundraising campaigns, normally within a single metropolitan area or some part of a particular State, and allot a portion of the net proceeds to each participating organization on the basis of the designations made by individual donors and other factors taken into account by the particular distribution formula utilized.

Contributions from public charities and other publicly supported organizations that are not fundraising agencies of the type described above should be reported on line 1(a) unless the donor and donee organization are affiliates. In the latter event, the donee should report such contributions on line 1(e).

1(d). *Contributions, etc. received as government grants.*—The discussion under *Grants equivalent to contributions* is particularly applicable to this line item. A grant or other payment from a governmental unit represents a contribution if the purpose of the payment is primarily to enable the donee to provide a service to, or maintain a facility for, the direct benefit of the public (even if part of the expense of providing such service or facility is paid for by the public) rather than to serve the direct and immediate needs of the grantor.

Following are examples of governmental grants and other payments that satisfy this requirement and therefore represent contributions:

(1) Amounts paid by a governmental unit for the construction or the maintenance of library or hospital facilities which are open to the public.

(2) Amounts paid under government programs to nursing homes or homes for the aged in order to provide health care or domiciliary services to residents of such facilities.

(3) Amounts paid to child placement or child guidance organizations under government programs serving children in the community.

The general public derives the primary benefit (and a direct one) from the above payments. Any benefit to the governmental unit itself would be indirect and insubstantial as compared to the public benefit.

1(e). *Other contributions, etc.*—Enter the aggregate amount of contributions, etc. received from all sources other than those covered by lines 1(a)–(d). As indicated by the instructions for line 1(a), contributions and grants from organizations affiliated with the donee organization should be reported on this line (1(e)).

A national organization's affiliates would include its local, State, and area chapters. The affiliates of any of these chapters would include both the national organization and any other chapter. An auxiliary or similar organization is an affiliate of the organization that it operates in close association with (whether or not there is any overlapping control) and to which it provides financial support or from which it receives such support.

1(f). *Total contributions, etc.*—Enter the total of the contributions, gifts, grants, and similar amounts reported on lines 1(a) through (e). See the instructions for line 1 above for information regarding the schedule of contributors required in some circumstances.

2. *Membership dues and assessments.*—Enter the total of memberhip dues and assessments from members and affiliates for the year that do not represent contributions. The rationale applied in Revenue Rulings 54–565, 1954–2 C.B. 95, and 68–432, 1968–2 C.B. 104, is applicable in making this distinction. These rulings state that dues paid to a charitable organization are a form of contribution to the extent that the amount paid exceeds the monetary value of the benefits and privileges accruing (but whether or not availed of) to the dues payer as an incident of membership.

Examples of such benefits and privileges include subscriptions to publications, newsletters (other than those which merely provide information as to the activities of the organization), free or reduced rate admissions to events sponsored by the organization or the use of its facilities, and discounts on articles or services available for purchase by both members and nonmembers. Other intangible benefits, such as the right to attend meetings, vote or hold office in the organization and the publicity or distinction arising from being a member of the organization, may be disregarded in determining the value of the benefits of membership.

In the case of membership organizations, other than those described in section 501(c)(3), there are generally benefits or consideration received in return for the payment of dues and, therefore, the dues are not contributions. This is particularly true with organizations described in section 501(c)(5), 501(c)(6) or 501(c)(7), although the benefits accruing to members may be somewhat indirect.

When a dues payment is made primarily to provide financial support for the activities of the recipient organization rather than for the payer to derive certain benefits having more than nominal monetary value, that dues payment represents a contribution. The fact that benefits whose aggregate value is more than a nominal amount are available to the dues payer evidences that that person's intent (and that of all members of the same class) in paying the dues was to receive those benefits and not to make a contribution.

3. *Interest.*—Enter the total interest income for the year, including interest on certain governmental obligations that is not subject to tax in accordance with section 103 of the Code, but excluding amounts earned on program-related investments (reportable on line 10). Program-related investments are those made for the primary purpose of accomplishing an exempt purpose consistent with the investing organization's exempt status rather than for the production of income. All income from loans, the purpose of which is to accomplish an exempt purpose, should be reported on line 10. Following are examples of such loans: scholarship loans; low interest loans to charitable organizations, indigents, or victims of a disaster; loans to affiliated organizations; and loans by a credit union to its members. Loans to officers, directors and trustees do not fall within this category.

4. *Dividends.*—Enter the total dividend income for the year, excluding any capital gains dividends which should be reported on line 7. Dividends on stock that represents a program-related investment (see instructions for line 3 for definition) should be reported on line 10.

5(a). *Gross rents.*—Enter the gross amount of rental income for the year from investment property. Do not include amounts that represent income from an exempt function (program service) which should be reported on line 10 (and the related exenses of which should be reported in column (C) of Part III). For example, an organization whose exempt purpose is to provide low-rental housing to persons with low income would derive exempt function income from such rentals. Renting office space or other facilities or equipment to unaffiliated exempt organizations does not give rise to income from an exempt function (and, therefore, should be reported on line 5(a)) unless the charge is materially below the fair rental value of the property, and the lessor's purpose in charging less than fair rental value was to assist the lessee in carrying out its exempt purposes. For purposes of completing Form 990 only, income derived from renting property to affiliated exempt organizations should be treated as exempt function income and reported on line 10.

5(b) *Rental expenses.*—Enter the total expenses paid or incurred that are attributable to the income reported on line 5(a). These expenses include depreciation if that expense is recorded on the organization's books of account.

5(c). *Net rental income.*—Enter the difference between lines 5(a) and 5(b). Any loss should be shown in parentheses.

6. *Royalties.*—Enter the total royalty income for the year from all sources.

7(a)–(c). *Capital gains.*—Attach a schedule showing with respect to each asset (whether or not depreciable) sold or exchanged: (a) date acquired, manner of acquisition, date sold, and to whom sold; (b) gross sales price; (c) cost, other basis, or value at time of acquisition if donated (state which); (d) expense of sale and cost of improvements subsequent to acquisition; and (e) if depreciable property, depreciation since acquisition.

Publicly traded securities.—In the case of sales of publicly traded securities through a broker, an organization may aggregate the gross sales price, the cost or other basis, and the expenses of sale on all securities sold and report lump sum figures in lieu of the detailed reporting required in the above paragraph.

For purposes of this return, publicly traded securities include common and preferred stock, bonds (including governmental obligations) and mutual fund shares which are listed and regularly traded in an over-the-counter market or on an established exchange and for which market quotations are published or otherwise readily available.

An exempt organization may use average cost basis in reporting gain or loss from sales of securities, provided such averaging is confined to sales reported for informational purposes only. For this purpose, when securities are sold, gain or loss may be computed by comparing the sales price with the average cost basis of the particular security.

The gross sales price should be entered on line 7(a) of Part I, the cost or other basis, expenses, etc. (less depreciation if applicable), should be aggregated and entered on line 7(b), and the net gain or loss entered on line 7(c). Capital gains dividends, the organization's share of capital gains and losses from a partnership, and capital gains distributions from trusts should be reported on lines 7(a) and 7(c) and the source indicated on the schedule described above.

8(a)–(c). *Income from special fundraising events and activities.*—Include on the appropriate line the gross income, expenses and net income from all special fundraising events and activities such as dinners, dances, carnivals, raffles, bingo games, and door-to-door sales of merchandise. In themselves, these activities do not accomplish an exempt purpose other than incidently. Their sole or primary purpose is to raise funds (other than contributions) to finance the exempt activities of the organization. This is done by offering goods or services of more than nominal value (as compared to the fee or price charged) in return for a payment adequate to yield revenue in excess of the direct cost of the goods or services provided. However, see the instructions for line 1 for reporting receipts and expenses where the recipient organization furnishes less than full consideration or consideration having only nominal value. Contributions received during the course of a special fundraising event (such as at a dance or carnival) should be reported on line 1.

In the three line schedule above line 8(a), describe each special fundraising event or activity conducted and indicate the gross proceeds and total expenses of each in the appropriate column. Attach a schedule if more space is needed.

Any expense included on line 8(b) should not also be reported on line 9(b) or in column (B) of Part III.

9(a)–(c). *Gross profit on sales of inventory.*—On the appropriate line provided, enter the amount of gross sales (minus returns and allowances), cost of goods sold, and gross profit (or loss) from the sale of all inventory items others than those sold in the course of special fundraising events and activities reported on line 8. These inventory items are either produced by the organization itself for sale to others or purchased by the organization for resale. The latter does not include investments on which the organization anticipated deriving a profit through appreciation and subsequent sale. (Such sales should be reported on line 7.) Sales revenue and the related cost of goods sold should be reported on line 9 whether the sale of the merchandise involved constitutes an exempt function of the organization or unrelated trade or business.

10. *Program service revenue.*—Enter the aggregate program service revenue from Part II, line (f). As discussed in the instructions for column (C) of Part III, program services are those activities conducted by an organization that form the basis of that organization's qualification for exemption from Federal income tax as an organization described in section 501(c). For example, a hospital would report on line 10 all of its charges for medical services (whether to be paid directly by the patients or through Medicare, Medicaid, or other third party reimbursement), hospital parking lot fees, room charges, laboratory fees for hospital patients, and related charges for services. Each of these revenue-producing program service activities would be listed in Part II along with an indication of the revenue derived from each. However, sales of drugs and pharmaceutical supplies to patients, food sales to patients, visitors, and staff, the sale of gift shop items, and other sales of inventory items consistent with the exempt function of the hospital would be reported on line 9 along with sales of inventory that constitute unrelated trade or business.

11. *Other revenue.*—Enter the amount from Part II, line (g). This figure represents the aggregate income from all sources not covered by lines 1 through 10. Each of these revenue-producing activities must be listed in Part II.

12. *Total revenue.*—Enter the total of lines 1(f) through 11. If the amount is $25,000 or less, see instruction D for information regarding the simplified reporting requirement for small organizations.

Lines 13 Through 16—Expenses

The completed schedule of expenses in Part III provides the information needed to complete the Total column of lines 13 through 16. In completing Part III, it is necessary to add together expenses of the same object classification (salaries, travel, occupancy, etc.) to reflect the functional activity (fundraising, program services, or management and general) in connection with which they were paid or incurred, without regard to whether the expenses were financed out of restricted or unrestricted funds. In completing lines 13–16 of the Restricted and Unrestricted columns it is necessary to resegregate these amounts to reflect the utilization of funds subject to externally imposed restrictions and those free of such restrictions. Again, completing the Restricted and Unrestricted columns is optional for all Forms 990 filed with IRS.

Organizations that report total revenue of $25,000 or less on line 12 do not have to complete lines 14 and 15.

13. *Fundraising.*—In the Total column, enter the amount from column (B) of line 40.

14. *Program services.*—In the Total column, enter the amount from column (C) of line 40. Organizations that reported total revenue of $25,000 or less on line 12 are not required to complete column (C) of Part III and, therefore, do not have to enter an amount on line 14.

15. *Management and general.*—In the Total column, enter the amount from column (D) of line 40. Organizations that reported total revenue of $25,000 or less on line 12 are not required to complete column (D) of Part III and, therefore, do not have to enter an amount on line 15.

16. *Total expenses.*—In the Total column, enter the amount from column (A) of line 40.

Lines 17 Through 20—Fund Balances

17. *Excess (deficit) for the year.*—Enter the difference between line 12 and line 16. If line 16 is greater than line 12, enter the deficit in parentheses.

18. *Fund balances or net worth, beginning of year.*—Enter the amount from column (A) of line 65.

19. *Other changes in fund balances or net worth.*—Attach a schedule explaining any changes in fund balances or net worth between the beginning and end of the year that are not accounted for by the excess or deficit on line 17. Amounts to be reported here include adjustments of prior years' activity and unrealized gains and losses on investments carried at market value. Transfers between restricted and unrestricted funds should be reflected in the Restricted and Unrestricted columns (by organizations that elect to complete those columns), but the net effect of such transfers would be -0- in the Total column.

20. *Fund balances or net worth, end of year.*—Enter the total of lines 17, 18, and 19. The figure in the Total column should equal the amount reported in column (B) of line 65.

Part II.—Program Service Revenue and Other Revenue

List each revenue-producing program service activity and each "other" activity as described in the instructions for lines 10 and 11. Enter the gross revenue (that is, without reduction for any related expenses) derived from each such activity in the proper column and report the total of each column on lines (f) and (g) of Part II and on lines 10 and 11 of Part I, as appropriate.

Part III.—Allocation of Expenses by Function

Part III reflects the organization's expenses by object classification (e.g., salaries, printing and postage, supplies) allocated into the three functional areas of fundraising (column (B)), program services (column (C)), and management and general (column (D)). These functional areas are explained below. Any expense item required to be reported on line 5(b), 7(b), 8(b), or 9(b) in Part I should not also be reported in Part III.

Organizations should follow their normal method of accounting in reporting their total expenses paid or incurred in column (A). If the filer's accounting system does not segregate expenses into categories that are readily compatible with columns (B), (C) and (D), any reasonable method may be used to allocate expenses among the three categories. Figures should be reasonably accurate if precise figures cannot be determined.

Expenses attributable solely to a specific function should be reported in the column

appropriate for that function. Expenses such as officers' salaries that are attributable to several functions should be reflected as an expense of the separate functions on the basis of the time devoted by each of the officers. Some shared expenses such as occupancy, supplies, and depreciation of furniture and fixtures must be allocated among columns (B), (C) and (D) using an appropriate basis for each type of cost while other shared expenses should be reported in column (D) only. The instructions for the individual columns discuss this further.

Column (A). *Total.*—Column (A) is the total of columns (B), (C) and (D) for each line item in Part III. With the exception of those expenses reported on lines 5(b), 7(b), 8(b), and 9(b) of Part I, all of the expenses paid or incurred by the organization (including contributions awarded and depreciation expense, if any) should be reported in column (A).

Column (B). *Fundraising.*—Fundraising expenses include the total costs of soliciting (restricted and unrestricted) contributions, gifts, grants, etc. Both direct and indirect expenses, including allocable amounts of overhead and other shared costs, should be reported in column (B). Expenses incurred in connection with special fundraising events and activities such as dances, raffles, bingo games, carnivals, etc. should not be reported in this column or anywhere else in Part III. Such expenses should be reported on line 8(b) of Part I. See the instructions for line 8 for additional discussion of the reporting of income and expenses from special fundraising events and activities.

Column (C). *Program services.*—Program services are those activities conducted by the organization that form the basis of the organization's qualification for exemption from tax as an organization described in section 501(c). When reporting these expenses, it does not matter whether these activities are self-funded (in whole or in part) or funded entirely out of contributions, investment income, accumulated income or any other source.

When an organization receives a grant requiring it to conduct research, produce a work product or perform a service either to meet the specific needs of the grantee or for the direct benefit of the public, the costs incurred represent program service expenses. These costs should not be treated as fund raising expenses even if the grant is reported as a contribution on line 1.

Column (D). *Management and general.*—This column is to be used to report those expenses which relate to the overall management and functioning of the organization rather than the direct supervision or conduct of fundraising activities or program services. Specific types of expenses that should be reported here include those attributable to meetings of the board of directors or similar group, committee and staff meetings, general legal services, accounting, personnel and other centralized functions, auditing, investment expenses other than those relating to rental income (line 5(b)), general liability insurance, preparation, publication and distribution of an annual report and office management. However, this is true only regarding expenses of a general nature and not expenses incurred in connection with a special meeting or other activity dealing with fundraising or specific program services.

Salaries of officers and their staffs and related expenses should be allocated to program services and fund raising on the basis of the officers' time devoted to those functions. Only the remainder should be reported as management and general expenses.

21. *Contributions, gifts, grants, and similar amounts awarded.*—Attach a schedule to support contributions, gifts, grants, scholarships, etc., showing: (a) each class of activity; (b) separate total for each activity; (c) name and address of donee and amount of distribution to donee; and (d) relationship of donee; if related by blood, marriage, adoption, or employment (including children of employees) to any person or corporation having an interest in the organization such as creator, donor, director, trustee, officer, etc. Activities should be classified according to purpose in greater detail than merely charitable, educational, religious, or scientific. For example, payments for nursing service, or laboratory construction, for fellowships, or for assistance to indigent families should be so identified. In case of payments for assistance to indigent families, the identity of the individual donees need not be reported on the attached schedule.

Although the actual distribution of cash, securities or other property is to be entered on line 21 of column (C), the expenses in connection with the distributions are not to be included on that line, but should be entered on lines 23 through 39 of column (C).

Where the fair market value of the property at the time of disbursement is the measure of a contribution, the schedule must also show: (a) description of the contributed property; (b) book value of the contributed property; (c) the method used to determine the book value; and (d) the date of the gift. In such case the difference between fair market value and book value should be reflected in the books of account.

22. *Benefits disbursed to or for members.*—Organizations furnishing benefits to members or dependents (such as those organizations exempt under section 501(c)(8), 501(c)(9) or 501(c)(17)) attach a schedule showing amount of: (a) death, sickness, hospitalization, or disability benefits, (b) unemployment compensation benefits, and (c) other benefits (state nature). Do not report on this line the cost of employment related benefits furnished officers and employees of the organization.

23. *Compensation of officers, directors, and trustees.*—Enter the aggregate amount of compensation of officers, directors, and trustees for the taxable year. The name, compensation, and other information relating to each officer, director, and trustee must be listed in Part IV.

The organization's officers, directors, trustees, etc., should include in their income all payments and allowances made to them or on their behalf, unless the payments are specifically excluded by some provision of the Code. For more detailed information regarding the types of income to be reported here, please see Publication 525, Taxable Income and Nontaxable Income.

All organizations, except for certain ones exempt under section 501(c)(3), that pay salaries, wages, or other compensation to officers or other employees are generally liable for filing Forms 941 and 940 to report social security, withholding, and Federal unemployment taxes. Your exemption letter will state whether or not your organization is subject to these taxes.

24. *Other salaries and wages.*—Enter the aggregate salaries of all employees not reported on line 23.

25. *Pension plan contributions.*—Enter the employer's share of contributions to qualified and nonqualified pension plans for the year. Complete Form 5500, 5500–C, or 5500–G, as appropriate, for your plan and file as a separate return. If you have more than one plan, complete the appropriate form for each plan. File this form on or before the last day of the 7th month following the close of the plan year.

26. *Other employee benefits.*—Enter the amount of your contributions to employee benefit programs (e.g., insurance, health and welfare programs) that are not an incidental part of a pension plan included on line 25. Also, see instructions for Form 5500.

27. *Payroll taxes.*—Enter the amount of Federal, State, and local payroll taxes for the year, but only those taxes that are imposed on the employer. This would include the employer's share of FICA taxes, the FUTA tax, State unemployment compensation taxes and other State and local payroll taxes. Do not include taxes (such as Federal and State income taxes and the employee's share of FICA tax) withheld from employees' salaries and paid over to the various governmental units.

28. *Fees for fundraising.*—Enter the amount paid or incurred as fees to outside fundraisers in connection with solicitation campaigns conducted by them and the receipts from which are reported on line 1(b). (See the instructions for line 1(b).) Also include fees paid or due to fundraisers for services such as providing consulting services in connection with a solicitation campaign conducted by the organization itself.

29. *Other professional services.*—Enter the total expense for the year for professional services including legal, accounting, investment advice, medical and other professional services not reported on line 28. Do not include amounts paid to employees of your organization.

30. *Interest.*—Enter the total interest expense for the year. Do not include any interest expense attributable to rental property which is reportable on line 5(b).

31. *Occupancy.*—Enter the aggregate amount paid or incurred for the use of office space or other facilities, heat, light, power, and other utilities other than that reported on line 34, outside janitorial services, and similar expenses.

32. *Rental and maintenance of equipment.*—Enter the total expense of renting and maintaining equipment other than automovtive equipment. Include the latter on

line 37 (other expenses) along with all other automobile operating costs.

33. *Printing and postage.*—Enter the total printing and postage costs for the year from all activities.

34. *Telephone.*—Enter the total telephone expense for the year. Telegram expenses may be included on this line or listed separately on line 37.

35. *Supplies.*—Enter the total cost of office, classroom, medical, and other supplies utilized during the year as determined under the organization's normal method of accounting for supplies.

36 *Travel.*—Enter the total of all travel expenses (other than automobile operating costs reportable on line 37).

37. *Other expenses.*—Enter the total of all other expenses and attach a schedule reflecting the type and amount of each.

38. *Total expenses before depreciation.*—Enter the total of lines 21 through 37.

39. *Depreciation, depletion, etc.*—If your organization follows the accounting practice of recording depreciation, depletion, and similar expenses, enter the total of such expenses for the year. Include any depreciation (amortization) of leasehold improvements. If you do record depreciation, attach a schedule (or use Form 4562, Depreciation) showing: (a) description of property; (b) date acquired; (c) cost or other basis (exclude land); (d) depreciation allowed or allowable in prior years; (e) method of computation; (f) rate (%) or life (years); and (g) depreciation this year (total additional first-year depreciation claimed must be shown on a separate line of the depreciation schedule).

Attach Form T if a deduction is claimed for depletion of timber.

40. *Total.*—Enter the total of lines 38 and 39. The figures entered in columns (A), (B), (C), and (D) should be reported on lines 16, 13, 14, and 15, respectively, of the Total column in Part I.

Part IV.—List of Officers, Directors, and Trustees

Enter the amount of compensation and other payments made by the organization during its annual accounting period (or during the calendar year ending within such period) to the officers, directors, and trustees (or any person having responsibilities or powers similar to those of officers, directors, or trustees) of the organization.

Column (E). *Expense account and other allowances.*—Enter only those amounts that are includable in the gross income of the recipients (i.e., reportable on their separate income tax returns) because no accounting was provided the organization, because allowances or reimbursements exceeded the expenses incurred by the payee in rendering services to the organization, or for any other reason.

Part V.—Balance Sheets

The balance sheets should agree with the books of account or any differences should be reconciled.

Lines 61 Through 65—Fund Balances and Net Worth Section

Fund Accounting

Organizations that use fund accounting should check the block in the left column and complete lines 61 through 65 using the line item captions in that column. Those organizations that do not use fund accounting should refer to the section labeled *All Others* below for instructions for completing the net worth section (lines 62 through 65) of the balance sheet. Fund accounting is a procedure under which an organization segregates its assets, liabilities, and net worth into separate funds according to externally imposed restrictions on the use of certain assets, similar designations by the organization's governing board, and other amounts that are unrestricted as to use. Each fund is like a separate entity in that it has a self-balancing set of accounts reflecting assets, liabilities, equity (fund balance), "income", and expenses. Since these funds are actually components of a single entity, they are all included in that organization's own financial statements. Similar accounts in the various funds may or may not be consolidated in those statements according to the organization's preference and practice. Parts I, III, and V of this form, however, require such consolidation. Recognition of the separate funds and the net changes within the various funds during the year is accomplished by the fund balances section (lines 61 through 65) of the balance sheet.

61(a). *Current funds, unrestricted.*—Enter the fund balance per books for the current unrestricted fund.

61(b). *Current funds, restricted.*—Enter the aggregate fund balances per books for all current restricted funds.

62. *Land, buildings and equipment fund.*—Enter the fund balance per books for the land, buildings and equipment fund (plant fund).

63. *Endowment and similar funds.*—Enter the aggregate fund balances per books for the (permanent) endowment fund and term endowment funds. The fund balances of the annuity and life income funds may be reported here if immaterial in amount or on line 64.

64. *Other funds.*—Enter the aggregate fund balances per books for all funds not reported on lines 61 through 63.

65. *Total fund balances.*—Enter the total of lines 61 through 64. The beginning of the year figure in column (A) should be carried over to the Total column in Part I at line 18. The end of year figure in column (B) should agree with the figure on line 20 of the Total column in Part I.

66. *Total liabilities and fund balances.*—Enter the total of lines 60 and 65. That total must equal the figure for total assets reported on line 53 for both the beginning and end of year.

All Others

All organizations that do not use fund accounting should check the block in the right column and report their net worth on lines 62 through 65.

62. *Capital stock or trust principal.*—For corporations, enter the balance per books in the capital stock accounts representing the par or stated value (or total amount received upon issuance in the case of stock with no par or stated value) of all classes of stock issued and, as yet, uncancelled. For trusts, enter the amount in the trust principal or corpus account.

63. *Paid-in or capital surplus.*—Enter the balance per books for all paid-in capital in excess of par or stated value for all stock issued and, as yet, uncancelled. Also, organizations that record them in such manner should include any paid-in capital representing donations from both stockholders and others. (Note: This does not apply to section 501(c)(3) organizations and most of the other organizations that file this form.) Any current year donations that would be included in the line 63 total must also be reported on line 1 of Part I.

64. *Retained earnings or accumulated income.*—For corporations, enter the balance in the retained earnings or similar account, less the cost of any treasury stock held by the corporation. For trusts, enter the balance per books in the accumulated income or similar account.

65. *Total net worth.*—Enter the total of lines 62 through 64. The beginning of the year figure in column (A) should be carried over to the Total column in Part I at line 18. The end of year figure in column (b) should agree with the figure on line 20 of the Total column in Part I.

66. *Total liabilities and net worth.*—Enter the total of lines 60 and 65. That total must equal the figure for total assets reported on line 53 for both the beginning and end of year.

Part VI.—Statements Regarding Certain Activities

67(a)–(e). *Description of activities.*—Provide a brief description of each significant program service activity you conducted, the expenses of which are reported in column (C) of Part III, during the period covered by this return. In the space provided, indicate the total expenses paid or incurred in connection with each such activity. See the instructions for column (C) of Part III for a discussion of program service activities.

68. *Change in activities.*—Attach a statement explaining any significant changes in the nature or type of activities that you conduct in furtherance of your exempt purpose. These new or modified activities would be those not specified as being conducted currently or planned in your application for recognition of exemption or those not previously made known to the Internal Revenue Service by means of a letter to your key district director or by an attachment to your return for any prior year. Besides the commencement of new activities or the modification of existing ones, any major program activities that are being terminated should also be disclosed.

69. *Changes in organizing or governing documents.*—Attach a copy of any changes to your articles of incorporation, constitution, trust instrument or other organizing document or your bylaws or other governing document. When a significant number of changes are made, a copy of the entire organizing

instrument or governing document, as revised, should also be provided.

70. *Unrelated business income.*—See general instruction N for a discussion of unrelated business income and the Form 990–T filing requirements for section 501(c) organizations having such income. All items of income and expense reported on Form 990–T must also be reported on Form 990 when the organization is required to file both forms.

71. *Liquidation, dissolution, termination, or substantial contraction.*—See general instruction R for definitions and instructions regarding the information required to be furnished in the event of a liquidation, dissolution, termination, or substantial contraction.

72. *Relation to other organizations.*—Answer this question "Yes" if a majority of the organization's governing body, officers, trustees or membership consists of individuals who are also officers, directors, trustees, or members of any one other organization.

A strictly coincidential overlap of membership with another organization, i.e., where membership or affiliation with one organization is not a condition of membership in the other, should be disregarded. For example, assume that a majority of the members of a section 501(c) (4) civic organization are also members of a local chamber of commerce described in section 501(c)(6). The civic organization should answer "No" to question 72 if there is no requirement to be a member of the chamber of commerce in order to qualify for membership in the civic organization.

Affiliation with any statewide or nationwide organization also should be disregarded. Thus, the civic organization in the above example would still answer "No" to question 72 even if it was a member of a State or national federation of similar organizations.

73. *Expenditures for political purposes.*—An "expenditure for political purposes" is any expenditure intended to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

An expenditure includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

Section 501(c) organizations are required to file Form 1120–POL if the amount of their expenditures for political purposes and their net investment income each exceed $100 for the year.

Section 501(c) organizations that maintain separate segregated funds described in section 527(f)(3) should refer to the instructions for Form 1120–POL for filing requirements.

74. *Donated services or facilities.*—Organizations that receive donated services or the use of facilities or equipment at less than fair rental value should not report the value of such items in Part I or III of this return. (See instructions for line 1.) However, some organizations may want this information to be reflected on the return since, as discussed in instruction L, Form 990 is available for public inspection.

Organizations that maintain records indicating the amount and aggregate value of the donated services or use of assets may enter that information in the space provided on line 74. (The IRS does not require the maintenance of such records or the reporting of this information.) Also, estimates may be furnished where there is a clearly objective basis for measuring the value of donated services or facilities.

75. *Section 501(c)(5) or (6) organizations.*—Attempts to influence the opinion of the general public, or any segment of the general public, with respect to legislative matters or referendums constitute grassroots lobbying. Such lobbying may be explicit in the case of an advertisement which urges or encourages the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation. Grassroots lobbying may also be implicit in any advertisement or other communication directed at the public if the communication is an attempt to mold the public's opinion on a legislative matter or referendum. Any lobbying directed at the members of the organization is not grassroots lobbying, but lobbying directed at "potential" members, employees of members, or stockholders of members would be. See section 1.162–20(c) of the income Tax Regulations for further discussion of grassroots lobbying.

76. *Clubs exempt under section 501(c)(7).*—A section 501(c)(7) organization is permitted to receive up to 35 percent of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. Of the 35 percent, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public.

Gross receipts are defined for this purpose as those receipts from normal and usual activities of the club (that is, those activities it has traditionally conducted) including charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. However, where a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the formula: that is, such unusual income is not to be included in either the gross receipts of the club or in the permitted 35 or 15 percent allowances. On the other hand where college fraternities or sororities charge membership initiation fees, but no annual dues, such fees will be included in their gross receipts, notwithstanding that initiation fees are ordinarily excluded.

If an organization has outside income in excess of the 35 percent limit (or 15 percent in the case of gross receipts derived from nonmember use of a club's facilities), all the facts and circumstances are to be taken into account in determining whether the organization qualifies for exempt status.

If the application of the above rules does not affect the club's exempt status, the amount of income shown on line 76(b) must be reported on Form 990–T.

Public Law 94–568 provides, in part, that an organization described in section 501(c)(7) is not exempt from income tax for any taxable year beginning after October 20, 1976, if, at any time during such a taxable year, its governing instrument, bylaws, or any written policy statement provides for discrimination against any person on the basis of race, color or religion.

77. *Section 501(c)(12) organizations.*—For purposes of section 501(c)(12), the term "gross income" means gross receipts less cost of goods sold.

78. *Public interest law firms.*—Public interest law firms exempt under section 501(c)(3) or 501(c)(4) must attach a statement that sets forth the cases in litigation, or that have been litigated during the year. With respect to each such case, the statement must include a description of the matter in dispute and an explanation as to how the litigation will benefit the public generally. See Rev. Proc. 71–39, 1971–2 C.B. 575. The firms must also attach a report of all fees sought and recovered. See Rev. Proc. 75–13, 1975–1 C.B. 662, for procedures for the acceptance of attorneys' fees.

[FR Doc. 79–22006 Filed 7–16–79; 8:45 am]

BILLING CODE 4830–01–M

BILLING CODE 4830–01–C

INTERSTATE COMMERCE COMMISSION

[Notice No. 58]

Motor Carrier Temporary Authority Applications

Corrections

In FR Doc. 79–16909, appearing at page 31355 in the issue for Thursday, May 31, 1979, on page 31361, in MC 145373(Sub-1TA), "Camden, AK" should be corrected to read "Camden, AR" in the two places it appears.

BILLING CODE 1505–01–M

[Docket No. AB–1 (Sub-No.63)[1]]

Chicago and North Western Transportation Co. Abandonment Near Rockford and Winnebago, In Winnebago County, IL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 (formerly Section 1a of the Interstate Commerce Act) that by a decision decided September 1, 1978, and the decision of the Commission, Division 1, served March 27, 1979, as modified, adopted the decision of the Review

[1] This proceeding is pending on a petition for judicial review in the United States Court of Appeals for the Seventh Circuit.

Board Number 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and provided that the applicant shall not sell, lease or otherwise dispose of the right-of-way underlying the track, all bridges and all culverts on the line for a period of 120 days followed issuance of the certificate to permit any state and/or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit abandonment by the Chicago and North Western Transportation Company of a line of railroad known as the Rockford-Winnebago line, extending from railroad milepost 93.5 near Rockford to milepost 100.4 at Winnebago, a distance of 6.9 miles, located in Winnebago County, IL.

A certificate of abandonment will not be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment until final determination of the proceeding by the United States Court of Appeals. During the interim, however, the procedures specified in 10905 (formerly Section 1a (6) and (7) of the Act) will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment 30 days after publication of this notice unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However, as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-21920 Filed 7-16-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-99396 (Sub-No. 2)]

L. J. Cerkueira d.b.a. C-Way Express (Alameda, CA); Certificate of Registration

Decided: July 5, 1979.

Applicant seeks a Certificate of Registration as evidence of the right to conduct operations in interstate and foreign commerce which do not exceed the scope of its intrastate authority. Applicant holds a State motor common carrier certificate granted by the California Public Utilities Commission in Decision No. 90234 dated April 24, 1979, which authorizes the operations in intrastate commerce reflected in the appendix to this decision. This certificate supersedes and revokes the prior State certificate on which applicant's Certificate of Registration in No. MC–99396 (Sub-No. 1) issued on February 4, 1964, is based.

The authority granted, to a certain extent, exceeds the scope of the authority as published in the **Federal Register.** Because it is possible persons who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix to this decision, a notice of the authority actually granted will be published in the **Federal Register.** Issuance of a Certificate of Registration in this proceeding will be withheld for a period of 30 days from the date of that publication. During that period any proper party in interest may file a petition for leave to intervene in this proceeding, setting forth in detail the precise manner in which it has been prejudiced.

We find:

That provisions of 49 U.S.C. 10931 have been satisfied. This decision does not significantly affect the human environment.

It is ordered:

Notice of the authority granted in this decision will be published in the **Federal Register.** In the event a petition for leave to intervene is filed, this decision shall be void. Otherwise, this decision shall become final 30 days from the date notice of the authority is published in the **Federal Register.**

The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *certificate of registration* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: Insurance (49 CFR Part 1043), designation of process agent (49 CFR Part 1044), and tariffs (49 CFR Part 1310).

Applicant must comply with these requirements within 90 days after the date this decision becomes final, or the grant of authority will be void. The Certificate of Registration in No. MC–99396 (Sub-No. 1) will be revoked concurrently with the issuance of the new one.

Note.—This decision does not constitute authority to operate.

By the Commission, Review Board Number 4, Members FitzPatrick, Fisher, and Reed (Board Member Fisher not participating).

H. G. Homme, Jr.,

Secretary.

Appendix

No. MC–99396 (Sub-No. 2)

L. J. Cerkueira d.b.a. C-Way Express (Alameda, CA)

Description of the transportation service authorized to be conducted solely within the State of California, in intrastate commerce, as a common carrier by motor vehicle pursuant to Certificate of Pulbic Convenience and Necessity granted by Decision No. 90234 dated April 24, 1979, issued by the Public Utilities Commission of the State of California:

* * * general commodities between all points and places in the San Francisco Territory (as described in Note A hereto), and points within twenty-five statute miles

thereof. Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, briefcases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).

2. Automobiles, trucks and buses, viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.

3. Livestock, viz: barrows, boards, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.

4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.

6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.

8. Logs.

9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

10. Fresh fruits and vegetables.

In performing the within-requested service, use may be made of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service.

Note A

San Francisco Territory

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Divison Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the Campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

[FR Doc. 79-21917 Filed 7-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 112]

Motor Carrier Temporary Authority Applications

June 21, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2095 (Sub-20TA), filed June 7, 1979. Applicant: KEIM TRANSPORTATION, INC., 420 No. Sixth (RFD #2, Box 10), Sabetha, KS 66534. Representative: Clyde N. Christey, Suite 110L Kansas Credit Union Bldg., 1010 Tyler, Topeka, KS 66612. *Gypsum and Gypsum products, in bulk,* from facilities of Georgia-Pacific Corp., Gypsum Div., located at or near Blue Rapids, KS. to the facilities of Ashgrove Cement Co., located at or near Louisville, NE; for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Georgia-Pacific Corporation, 1062 Lancaster Ave., Rosemont, PA 19010. Send protest to: M.E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 9325 (Sub-78TA), filed May 23, 1979. Applicant: K LINES, INC., 17765 S. W. Boones Ferry Road, Portland, OR 97034. Representative: Mr. John A. Anderson, Suite 1440, 200 Market Building, Portland, OR 97201. *Lime* from Portland, OR to points in that part of CA in and South of Marin, Solano, San Joaquin, Amador, and Alpine Counties, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ash Grove Cement Company, 13939 N. Rivergate Boulevard, Portland, OR 97217. Send protests to: A.

E. Odoms DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 14215 (Sub-44), filed June 4, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Hot topping compound, except in bulk,* from Philadelphia, PA, to points in IL, IN, KY, OH, WV and the lower peninsula of MI, for 180 days. Supporting shipper(s): National Pigment Company, Inc., Orthodox St. at Delaware River, Philadelphia, PA 19137. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 14215 (Sub-45TA), filed May 31, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Iron, steel and aluminum products, as from the mill,* from Chicago, IL to Detroit, MI and Cincinnati, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph T. Ryerson & Son, Inc., 2621 West 15th Place, Chicago, IL 60608. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 14215 (Sub-46TA), filed May 24, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Lime and limestone products, including high temperature bonding mortar,* from Sandusky County, OH to all points in the States of DC, MD, NC, PA, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pfizer, Inc., P.O. Box 46, Gibsonburg, OH 43431. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 29555 (Sub-99TA), filed May 24, 1979. Applicant: BRIGGS TRANSPORTATION CO., N–400 Griggs-Midway Building, St. Paul, MN 55104. Representative: Winston W. Hurd (same address as applicant). *Common carrier:* regular routes: *General commodities, except those of unusual value, livestock, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading* between St. Louis, MO and Keokuk, IA with no service to or from intermediate points: from St. Louis, MO over U.S. Highway 61 to Keokuk, IA and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant request authority to interline at St. Louis, MO as well as at other customary gateway points, and to tack this authority with authority it presently holds in NO. MC–29555 Sub 89. Supporting shipper(s): There are 20 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 44735 (Sub-42TA), filed May 30, 1979. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th St., Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison St., Topeka, KS 66603. *Iron and Steel and Iron and Steel Articles,* from the facilities of United States Steel Corporation at or near Gary, IN, South Chicago, Joliet and Waukegan, IL to the states of IL (from Gary only) IA, KS and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corp., 1000 E. 80th Place, Merrillville, IN 46410. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 52704 (Sub-226TA), filed May 7, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta GA 30345. *Containers, container ends and closures,* from Martinsville, VA, to Eden, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-227TA), filed June 4, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta GA 30345. *(1) Door jambs and wooden moldings,* from Roanoke, AL, to points in AR, FL, GA, IL, IN, KY, LA, MA, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV, and *(2) Materials, equipment and supplies used in the manufacture or distribution of door jambs and wooden moldings* (except in bulk), from points in the states listed in (1) above to Roanoke, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): JLM, INC., P.O. Box 208, Roanoke, AL 36274. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-228TA), filed June 4, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta GA 30345. *Paper and paper products,* from the facilities of Champion International Corporation at or near Courtland, AL to points in GA, KY, LA, MS, NC, SC, TN, VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 56244 (Sub-84TA), filed June 4, 1979, Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third St., Harrisburg, PA 17108. *Canned goods, except commodities in bulk and frozen foods* from the facilities of Joan of Arc Company at Hoopeston and Princeville, IL, to points in MD, NJ, PA, VA, DC, restricted to traffic originating at the named facilities and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joan of Arc Co., 2231 W. Altorfer, Dr., Peoria, IL 61615. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 629, Phila., PA 19106.

MC 61825 (Sub-104TA), filed April 24, 1979, Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, P.O. Box 385. Collinsville, VA 24078. Representative: John D. Stone, Traffic Manager, (address same as above). *Glass containers and container accessories,* from South Volney, NY to Eden and Midway, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 61825 (Sub-105TA), filed April 20, 1979, Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, Collinsville, VA 24078. Representative: John D. Stone, Traffic Manager, (address same as above). *Glass containers and container accessories,* from Henryetta, OK to Detroit, MI; Frankenmuth, MI; Indianapolis, IN; Milwaukee, WI and St. Louis, MO, for 180 days. Supporting shipper(s): Midland Glass Company,

Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 61825 (Sub-106TA), filed April 30, 1979, Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, (same address as above). *Food and food products,* from the plantsite of Campbell Soup Company, Napoleon, OH (and local storage warehouses) to points in VA and NC, for 180 days. Supporting shipper(s): Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 61825 (Sub-107TA), filed May 11, 1979, Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone, (same address as above). *Glass containers and accessories,* from S. Connellsville and Youngwood, PA to Suffolk, VA and Edenton, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 61825 (Sub-108TA), filed May 9, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as above). (1) *Malt Beverages and Related Advertising Materials* and (2) *Empty Containers* from (1) Pabst, GA to DE, MD, VA and DC and (2) from DE, MD, VA and DC to Pabst, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pabst Brewing Company, 917 West Juneau Avenue, Milwaukee, WI 53201. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 61825 (Sub-109TA), filed May 2, 1979. Applicant: ROY STONE TRANSFER CORP., V. C. Drive, Collinsville, VA 24078. Representative: John D. Stone (same address as above). *Glass containers and container accessories,* from the facilities of Libbey Glass, Division of Owens-Illinois, Inc. at Shreveport, LA to points in AL; FL; GA; MS; and TN and from Toledo, OH to points in NC; NJ; NY; PA; SC and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey Glass—Div of Owens-Illinois, P.O. Box 919, 940 Ash Street, Toledo, OH 43693. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 73165 (Sub-481TA), filed June 6, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35203. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. *Iron and steel articles,* from Bellevue, OH to points in AL, AR, FL, GA, LA, MS, MO, NC, SC, TN and TX. Restricted to traffic originating at the facilities of LaBarge, Inc. Tubular Division, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): La Barge, Inc., Tubular Division, 20 South Fourth Street, St. Louis, MO 63102. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 85934 (Sub-103TA), filed May 28, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Sullivan, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Suntan Buff Cement,* in bulk and in bags, from Chicago, IL to points in MO, OH, KS, IN, IL, WI, OK, MI, MS, SD and NE. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penn-Dixie Industries, Inc., P.O. Box 152, Nazareth, PA 18064. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 85934 (Sub-104TA), filed June 1, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming Avenue, P.O. Box 248, Dearborn, MI 48121. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Roofing and roofing materials,* from the facilities of the Celotex Corporation plant at Chicago, IL to points in the State of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Celotex Corporation, a subsidiary of Jim Walter Corporation, 1500 N. Dale Mabry, Tampa, FL 33607. Send protests to: C. R. Flemming, DS, ICC, 225 Federal Building, Lansing, MI 48933.

MC 98614 (Sub-11TA), filed June 5, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, INC., 100 West Emily, North Little Rock, AR 72214. Representative: J. E. Siegler (same as applicant) (Mail address P.O. Box 702, Little Rock, AR 72203). *Petroleum and petroleum products* in bulk in tank trucks from Tulsa, OK to Van Buren, AR, for 180 days, an underlying ETA seeks 90 days authority. Supporting shipper(s): Cee Jay's Union 76 Auto Truck Plaza, Inc., I–40 & Highway 59, P.O. Box 643, Van Buren, AR 72956. Send protests to: Will H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 109515 (Sub-16TA), filed June 7, 1979. Applicant: OZELLA HARRINGTON, an individual, P.O. Box 604, Benson, AZ 85602. Representative: Earl H. Carroll, 363 N. 1st Ave., Phoenix, AZ 85003. Contract, irregular, *ammonium nitrate solution and prilled ammonium nitrate, in bulk,* from Carlsbad, NM to points in AZ, for 180 days. An underlying ETA seeks 30 days only authority. Supporting shipper(s): Apache Powder Co., P.O. Box 700, Benson, AZ 85602. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 111045 (Sub-172TA), filed June 8, 1979. Applicant: REDWING CARRIERS, INC., 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). (1) *Chemicals,* in bulk, in tank vehicles, from Spartanburg, SC to FL, MS, LA, and TX; and (2) *Tall oil,* in bulk, in tank vehicles, from Port St. Joe, FL to Spartanburg, SC; and (3) *Petroleum products,* in bulk, in tank vehicles, from TX to Spartanburg, SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Unisphere Chemical Corp., P.O. Box 2871, Spartanburg, SC 29304. Send protests to: Donna M. Jones, T/A, ICC–BOp, Suite 101, 8410 NW., 53rd Ter., Miami, FL 33166.

MC 112304 (Sub-188TA), filed June 4, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (same as applicant). *Concrete cylinder pipe,* from the facilities of Gifford-Hill American, at or near Grand Prairie, TX, to Little Rock, AR, and points within a 20-mile radius thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gifford-Hill American, 1004 Meyers Road, P.O. Box 1571, Grand Prairie, TX 75051. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113024 (Sub-161TA), filed May 31, 1979. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Highway, Smyrna, DE 19977. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. *Contract carrier,* irregular routes: *Clothing and dry goods, drugs and medicines, toilet preparations and*

articles, diaper liners, and materials and supplies (except liquid commodities in tank vehicles) used in the manufacture and distribution thereof (1) between Dover, DE, on the one hand, and, on the other, points on and East of the Mississippi River and those in AR, KS, LA, MN, MO, NE and TX, and (2) Between Camarillo, CA, on the one hand, and, on the other, points in CO, OR and UT, under a continuing contract with International Playtex, Inc., for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): James M. Harrison, International Playtex, Inc., P.O. Box 631, Dover, DE 19901. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 113434 (Sub-139TA), filed May 18, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A 5253 144th Avenue, Holland, MI 49423. *Frozen foods* from Lake City, PA to Plover, WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send Protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building Lansing, MI 48933.

MC 114004 (Sub-173TA), filed June 4, 1979. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Representative: W. G. Chandler (same as applicant). *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and buildings, in sections, from points in Idaho to points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting Shipper(s): Cliff Ind. Inc., P.O. Box 487, 2116 Northland Dr., Nampa, ID 83651; Champion Home Builders Co., 5573 E. North Street, Dryden, MI 48428; and Broadmore Homes of Idaho, P.O. Drawer L, Nampa, ID 83651. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 116474 (Sub-44TA), filed June 7, 1979. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Representative: David C. White, 2400 S.W. Fourth Avenue, Portland, OR 97201. CONTRACT, IRREGULAR, *treated poles*, (1) from Renton & Arlington, WA, to points in ID & OR; (2) from Eugene & The Dalles, OR to points in WA; under a continuing contract with J. H. Baxter & Company for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J. H. Baxter & Company, P.O. Box 568, Renton, WA 98055. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 116915 (Sub-84TA), filed May 14, 1979. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Rt. No. 1, P.O. Box 248, Rockport, IN 47635. Representative: Fred Bradley, P.O. Box 773, Frankfort, KY 40601. *Iron and steel articles* between the facilities of Atlantic Steel Co., located at or near Atlanta and Cartersville, GA on the one hand, and, on the other points in MO, IL, WI, IN, MI, OH, WV, PA, KY, and TN. (Restricted to shipments originating at or destined to the facilities of Atlantic Steel Company) for 180 days. SUPPORTING SHIPPERS: Atlantic Steel Company, CTM, Box 1714, Atlanta, GA 30301. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 116915 (Sub-85TA), filed May 14, 1979. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Rt. No. 1, P.O. Box 248, Rockport, IN 47635. Representative: Fred Bradley, P.O. Box 773, Frankfort, KY 40601. *Iron and Steel Articles* originating at the facilities of Connors Steel Co. at Huntington, WV to points in the United States (except WV) in and East of WI, IL, MO, OK, and TX for 180 days. SUPPORTING SHIPPER: Connors Steel Company, P.O. Box 118, Huntington, WV 25706. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 117344 (Sub-282TA), filed May 25, 1979. Applicant: THE MAXWELL CO., 10380 Evendale Dr., Cincinnati, OH 45215. Representative: John C. Spencer (same address as applicant). *Isocyanates*, in bulk, from Cincinnati, OH to points in CT, DE, ME, MA, NH, NJ, NY, PA, RI and VT, for 180 days. Supporting Shipper(s): The Upjohn Company, P.O. Box 685, LaPorte, TX 77571. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620 Philadelphia, PA 19106.

MC 119934 (Sub-230TA), filed May 17, 1979. Applicant: ECOFF TRUCKING, INC., 925 E. Broadway, Fortville, IN 46040. Representative: Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Printing ink*, from New Albany, IN to Atglen, PA for 180 days. Supporting shipper(s): Flint Ink Corporation, 25111 Glendale Avenue, Detroit, MI 48239. Send protests to: Beverly J. Williams, Transportation Assistant, ICC 46 E. Ohio Street, Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 121664 (Sub-75TA), filed June 7, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. *Building materials and materials and supplies used in the manufacture thereof*, between the facilities of GAF Corp., at or near Mobile, AL, on the one hand, and on the other, points in FL, GA, LA, MS, TN, TX, and VA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): GAF Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 123744 (Sub-55TA), filed June 4, 1979. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: E. Steward Butler (same as applicant). *Clay (in bags)* from McIntyre and Gardner, GA to points in PA for 180 days. Supporting shipper(s): Van Horn, Metz & Company, 400 Keystone Drive, Carnegie, PA 15106. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 129784 (Sub-11TA), filed June 8, 1979. Applicant: DAVISON TRANSPORT, INC., P.O. Drawer 846, Ruston, LA 71270. Representative: Tom E. Moore (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *sodium chlorate crystal*, in bulk, from ERCO Industries, Inc., at Rilla, LA to points in NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ERCO Industries, Inc., P.O. Box 1612, Monroe, LA 71201. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 123885 (Sub-32TA), filed May 24, 1979. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD 57709. Representative: Floyd E. Archer, P.O. Box 1794, Sioux Falls, SD 57101. *Waste or scrap materials* from Sioux Falls, SD to Norfolk, NE and points and places within 10 miles of Norfolk, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pitts' Inc., Third and Phillips, Box 1006, Sioux Falls, SD 57101. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 125535 (Sub-16TA), filed May 24, 1979. Applicant: NATIONAL SERVICE LINES, INC., OF NEW JERSEY, 12015 Manchester Rd., Suite 118, St. Louis, MO

63131. Representative: Donald S. Helm, (same address as applicant). Contract authority, irregular routes, (1) *Glass, flat, bent, polished: glazing units* and (2) *commodities* used in the manufacture and distribution of the commodities in (1) above, except commodities in bulk in tank vehicles, between the facilities of C–E Glass, Combustion Engineering, Inc., at St. Louis and Truesdail, MO and Cinnaminson and Pennsauken, NJ, on the one hand, and, on the other, points in the U.S. in and east of KS, NE, ND, OK, SD and TX, under a continuing contract or contracts with C–E Glass, Combustion Engineering, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C–E Glass, Combustion Engineering, Inc., P.O. Box 268, Cinnaminson, NJ 08077. Send protests to: P. E. Binder, D/S, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 126305 (Sub-122TA), filed June 7, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, Al 36016. Representative: George A. Olson, P.O. Box 357, Gladstone, NJ 07934. *Hardwood flooring unfinished,* from the facilities of De Soto Hardwood Flooring Company, Memphis, TN, to points in NJ, NY, NC, PA, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): De Soto Hardwood Flooring Company, P.O. Box 1201, Memphis, TN 38101. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 134405 (Sub-75TA), filed May 24, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112, *Petroleum and petroleum products,* in bulk, in tank vehicles, from the facilities of Texaco, Inc., at Port Arthur, TX, to points, in AR, KS, MO & OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77002. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138875 (Sub-199TA), filed June 4, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). *Brick, except commodities in bulk,* from Fairbury, NE to points in ID, MT, NV, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Masonry Center, Inc., 1424 N. Orchard, P.O. Box 7825, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 135874 (Sub-173TA), filed June 6, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: Paul Nelson (same address as applicant). *Petroleum products (except in bulk)* from the facilities of Witco Chemical Corporation and Neville Chemical Company at Bradford and Petrolia, PA and the Pittsburgh, PA commercial zone to points in IA, KS, MN, MO and the Chicago and Kankakee, IL commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Witco Chemical Corporation, Bradford, PA 16701. Neville Chemical Company, Grand Avenue, Neville Island, Pittsburgh, PA 15225. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 138875 (Sub-201TA), filed May 21, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). *Brick, tile and masonry and supplies, except commodities in bulk,* from points in Los Angeles, Orange, Riverside, Ventura, Sacramento, El Dorado, San Bernadino and Placer Counties, CA to points in ID, in and south of Adams, Lemhi and Valley Counties, ID and Malheur and Baker Counties, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Masonry Center, Inc., 1424 N. Orchard, P.O. Box 7825, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 13875 (Sub-202TA), filed June 7, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). *Plumbing fixtures,* from Conyers, GA, Denison and Hondo, TX to points in CA, ID, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Familian Sierra Craft Co., Inc., 710 No. 11th St., Caldwell, ID 83605. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 139284 (Sub-3TA), filed May 15, 1978. Applicant: TRUCKER'S, INC., 4316 South Main St., Stafford, TX 77477. Representative: Robert T. R. Patterson, P.O. Box 337, Stafford, TX 77477. *Coal and lignite, in bulk* between New Orleans, Lake Charles, Baton Rouge, and Morgan City, LA on the one hand and points in TX on the other hand and between Houston, Port Arthur, Corpus Christi, Brownsville, Freeport, and Beaumont, TX, and points in TX restricted to traffic having a prior or subsequent movement in interstate or foreign commerce for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): South Texas Coal Supply, Inc., 560 Bank & Trust Tower, Corpus Chrisiti, TX 78477. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. No. 8610, Houston, TX 77002.

MC 140104 (Sub-8TA), filed June 7, 1979. Applicant: TOLEDO FRIGID LINES, INC., 4060 Fitch Road, Toledo, OH 43613. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. *Contract carrier:* irregular routes: (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, institutions, catalog showroom stores, and home center stores, except commodities in bulk;* (2) *equipment, materials and supplies used in the preparation and distribution of commodities in* (1) *above,* between Toledo and Maumee, OH, on the one hand, and on the other, points in AL, AZ, GA, LA, NM, NY, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seaway Food Town, Inc., 1020 Ford St., Maumee, OH 43537. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 140665 (Sub-55TA), filed June 7, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Automotive parts and accessories,* from Green Island, NY to the facilities of Ford Motor Company at Pico Rivera and Milpitas, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, P.O. Box 1529, Dearborn, MI 48121. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 140744 (Sub-10TA), filed June 4, 1979. Applicant: ARCTIC AIR TRANSPORT, INC., 103 North Eau Claire Street, Mondovi, WI 54755. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Frozen foodstuffs* between Indianapolis, IN, on the one hand, and, on the other, points in IL, IA, MN and WI, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, in, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 South Arlington Avenue, Indianapolis, IN 46203. Send protests to: Delores A. Poe, TA, ICC, 414

Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 141245 (Sub-11TA), filed June 8, 1979. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, VT 05401. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. *Paper and paper products and materials, equipment and supplies used in the manufacture and distribution of paper and paper products,* between Gilman, VT on the one hand, and, on the other points in CT, MD, MA, NJ, NY, PA and RI for 180 days. Supporting shipper(s): Georgia Pacific Corp., 800 Summer Street, Stamford, CT 06901. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 141385 (Sub-4TA), filed May 25, 1979. Applicant: PENNER FEED & SUPPLY, INC., Inman, KS 67546. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Contract Carrier, irregular routes: *Flour, flour products and bakery ingredients and supplies,* between Inman, KS, on the one hand, and, on the other, points in MN, MO, MT, NE, OK & TX; for 180 days. Supporting shipper(s): Eddie's Bake-N-Serv, Inc., P.O. Box 326, Inman, KS 67546. Send protests to: M. E. Taylor, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 141774 (Sub-26TA), filed April 25, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Clay, crude or ground, floor sweeping compound and absorbents* (except commodities in bulk, in tank vehicles) from the facilities of the Oil-Dri Corporation of America, at Ochlicknee, GA to FL, for 180 days. Supporting shipper(s): Oil-Dri Corporation of America, 520 N. Michigan Avenue, Chicago, IL 60611. Send protests to: Mabel E. Holston, TA, Room 1616 2121 Building, ICC, Birmingham, AL 35203.

MC 141804 (Sub-227TA), filed May 22, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 3488. *Mirrors, doors, builder's hardware and home accessories,* from the facilities of Monarch Mirror Door Company at Chatsworth, CA and its commercial zone to points in NV, AZ, UT, MT, WY, CO, NM, TX, OK, KS, NE, SD, ND, MN, IA, MO, AR and LA, for 180 days. An underlying ETA seeks 90 up days operating authority. Supporting shipper(s): Monarch Mirror Door Co., P.O. Box 768, 21325 Superior St., Chatsworth, CA 91311. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA. 90053.

MC 142715 (Sub-55TA), filed June 11, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). *Fly ash (except in tank or hopper vehicles)* from St. Paul, MN to points in ND, SD, NE, IL, WI, IN, IA and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tek Barton, Inc., P.O. Box 422, South St. Paul, MN 55075. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143775 (Sub-99TA), filed June 1, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Washing, cleaning and scouring compounds, drugs and toliet preparations, paper and plastic articles, health and beauty products and equipment, foodstuffs, beverage and dessert preparations in mechanically temperature controlled vehicles,* from Dallas, TX, and its commercial zone to points in LA, for 180 days. Supporting shipper: Bristol Myers Co., 345 Park Ave., New York, NY 10022. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 145664 (Sub-7TA), filed May 22, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: John M. LeFevre and James S. Holmes, Holmes, Kircher, Graven & Reyer, 4610 IDS Center, Minneapolis, MN 55402. *Plywood and/or laminated panels* from the United States-Canada International Boundary Line at or near Grand Portage, MN to points in MN, KS, MI, ND, CA, IL, MD, VA, TN, PA, OH and WI, limited to traffic originating at the facilities of MacMillan Bloedel Building Materials Limited at or near Nipigon, Ontario, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Multiply Plywoods Ltd., Box 910, Nipigon, Ontario, Canada. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145715 (Sub-5TA), filed May 24, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Road, Van Buren, AR 72956. Representative: Elaine M. Conway, 10 S. La Salle St., Suite 1600, Chicago, IL 60603. *Leather shoe findings and materials and supplies used in the manufacture of shoes,* from Fond du Lac and Milwaukee, WI; Chicago, IL; and Sullivan and St. Louis, MO to Hot Springs and Wynne, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lake Catherine Footwear, P.O. Box 1157, Hot Springs, AR 71901. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145715 (Sub-6TA), filed May 29, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Road, Van Buren, AR 72965. Representative: Elaine M. Conway, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* from Searcy, AR to Baltimore and Landover, MD and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land O-Frost, Inc., 16850 Chicago Ave., Lansing, IL 60438. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 147025 (Sub-1TA), filed June 5, 1979. Applicant: KENNETH C. FREIBOTH, d.b.a. FREIBOTH TRUCKING CO., 24537 N. Wind Lake Rd., Wind Lake, WI 53185. Representative: David V. Purcell, 111 E. Wisconsin Ave., Milwaukee, WI 53202. Contract carrier; irregular routes; *Polyethlene film and sheeting* from facilities of Andmar Plastic Co., Inc. at Clifton, NJ to Chicago and its Commercial Zone, Gilberts, Lake Villa, and Richmond, IL; Buffalo, Horseheads, Johnson City and Victory, NY; Twinsburg, OH; Harrisburg, PA; and Milwaukee, WI and its Commercial Zone, under a continuing contract(s) with Andmar Plastic Co., Inc., for 180 days. Supporting shipper(s): Andmar Plastic Co., Inc., Highway 46 & Trenton Ave., Clifton, NJ 07011. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146694 (Sub-1TA), filed May 30, 1979. Applicant: CARPET DISTRIBUTION, INC., 712 East Broadway, West Memphis, AR 72301. Representative: Thomas G. Montgomery, P.O. Box 781, West Memphis, AR 72301. *Carpet or rugs—soft surface pile fabrics* power machine tufted, between points in Whitfield, Murray and Catoosa Counties in Georgia; Shelby County in Tennessee; and Crittenden County in Arkansas, for 180 days. An underlying ETA seeks 90 days authority. Applicant request authority to interline at Crittenden County, AR and Shelby County, TN.

Supporting shipper(s): Thomas Floor Covering, 3984 Park Avenue, Memphis, TN 38111. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146974 (Sub-2TA), filed June 6, 1979. Applicant: WILLIAM V. THOMAS, P.O. Box 554, Ojo Caliente, NM 87549. Representative: William V. Thomas (same address as applicant). *Gypsum Wallboard Paper,* from Denver, CO to Albuquerque, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Gypsum, P.O. Box 6345, Albuquerque, NM 87197. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 147345 (Sub-1TA), filed June 4, 1979. Applicant: GRANT A. TOWLE, RICHARD W. TOWLE & IRENE A. TOWLE d.b.a. FREXCO, 10643 Everest Street, Norwalk, CA 90650. Representative: John R. Tuttle, P.O. Box 1373, Vancouver, WA 98666. *Contract:* irregular: *Waterbeds and waterbed accessories (except in bulk),* between points in CA, on the one hand, and on the other points in OR & WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Tree Enterprises d.b.a. The Magic Mushroom, 313 W. Riverside, Spokane, WA 99201; Environmental Living Center, Inc., 109 S. E. Salmon, Portland, OR 97214; Bedroom Gallery, 111 N. E. Union Avenue, Portland, OR 97232. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 139495 (Sub-449 TA), filed February 26, 1979, and published in Federal Register issue of April 13, 1979, and republished as corrected this issue. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Springs, MD 20910. *Such merchandise as is dealt in by retail department stores (except foodstuffs, household goods as defined by the Commission, articles of unusual value and commodities in bulk),* from the facilities of, or utilized by T. G. & Y. Stores Co. in Long Beach of Los Angeles, CA, to the facilities of, or utilized by T. B. & Y. Stores Co. in Lubbock, TX; Oklahoma City and Edmond, OK; and Kansas City , KS, for 180 days. An underlying ETA seeks 90 days authority. The purpose of those republication is to show origin and destination which was inadvertently omitted and to correct Sub-number.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-21963 Filed 7-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-46 (Sub-No. 13F)]

William M. Gibbons, Trustee of the Property of Chicago, Rock Island & Pacific Railroad Co., Debtor, Abandonment Near Hancock and Avoca In Pottawattamie County, IA; Findings

Notice is hereby given pursuant to 49 U.S.C 10903 that by a decision entered on May 18, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the condigions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2) Oregon short Line R. Co.-Abandonment Goshen, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Chicago, Rock Island and Pacific Railroad Company of a line of railroad known as Hancock to Avoca extending from railroad milepost 5.78 near Hancock to the end of the line near Avoca, a distance of 6.0 miles, in Pottawattami County, IA. A Certificate of abandonment will be issued to William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor based on the above described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquistions and operating agreement the Commission shall postpone the issuance of such a certificate for such period fo time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contined in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contianed in the above-referenced decision.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-21919 Filed 7-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Released Rate Application No. MC-1479]

National Motor Freight Traffic Assoc., Inc.; Released Rate Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rate Application No. MC-1479.

SUMMARY: National Motor Freight Traffic Association, Inc., seeks authority to amend Released Rates Order No. MC-894, which authorized publication of ratings in the National Motor Freight Classification on data processing machines and equipment subject to declared or released values. The proposed amendment would expand this authority to permit the publication of commodity and exceptions rates for the transportation of the data processing machines and equipment, at the same released values as presently published in the National Motor Freight Classification under Released Rates Order No. MC-894.

DATES: The Released Rates Board will not act on this application before 15 days from the date this notice is published in the Federal Register.

ADDRESSES: Anyone seeking copies of this application should contact: Mr.

William W. Pugh, National Motor Freight Traffic Association, 1616 P Street, NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Max Pieper, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7552.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly Sections 20(11), 219 and 413 of the Interstate Commerce Act.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–21918 Filed 7–16–79; 8:45 am]

BILLING CODE 7035–01–M

[Decision Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Cost

Decided: July 10, 1979.

In our decision of June 26, 1979, a 7-percent surcharge was authorized on all owner-operator and truckload traffic. We ordered that all owner-operators were to receive compensation at this level. As indicated in the prior decision, further upward changes are not contemplated until the Commission's weekly fuel index exceeds this 7-percent figure. The weekly figure set forth in the Appendix to this decision for all owner-operator and truckload traffic is 6.7 percent. Accordingly, the 7 percent figure authorized on June 26, 1979 remains in effect.

With regard to the second percentage surcharge figure for less-than-truckload (LTL) traffic, the index has risen to 3.0 percent. As noted in our prior decision of July 3, 1979, we are presently considering a petition filed jointly by the National Small Shipments Traffic Conference, Inc. and Drug and Toilet Preparation Traffic Conference, Inc. This petition alleges that the 7.5 percentage of fuel expense to total revenue figure used to derive the LTL surcharge is too high. As stated in the prior decision, while we are attempting to determine whether petitioners' contention has merit, no change will be made in the existing authorization of a 2.7 percent on LTL traffic performed by carriers not utilizing owner-operators.

We have received many inquiries on the particular question of whether, in reissuing a new tariff supplement for a revised surcharge figure, the prior surcharge may be incorporation into the rate structure. The Commission wishes to emphasize that for the present all X–311 surcharges authorized are to be separate and apart from the rate structure.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each state and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

This decision shall become effective July 10, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,

Secretary.

July 9, 1979.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)	
January 1, 1979	63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)	
July 9, 1979	88.5¢

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue	
(1) From Transportation Performed by Owner Operators (Apply to All Truckload Traffic)	(2) Other (Including Less-Truckload Traffic)
16.9%	7.5%
Percent Surcharge	
6.7%	3.0%

[FR Doc. 79–21961 Filed 7–16–79; 8:45 am]

BILLING CODE 7035–01–M

[Notice No. 113]

Office of Proceedings

Motor Carrier Temporary Authority Applications

June 26, 1979.

Important Notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2934 (Sub-27TA), filed May 21, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington, St., Suite 1000, Indianapolis, IN 46204. *Restaurant equipment* from the facilities of Raygal Design Associates at Anaheim, CA, and suppliers or warehouses within 50 miles of Anaheim, CA to points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Raygal Design Associates Incorporated, 1550 Bayside Drive, Corona del Mar, CA 92625. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 2934 (Sub-28TA), filed May 21, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington, St., Suite 1000, Indianapolis, IN 46204. *Restaurant equipment,* from the facilities of Bridgewater and Associates at the City of Commerce, CA, and suppliers or warehouses within fifty (50) mile radius of the City of Commerce, CA, to points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Bridgewater and Associates, 3338 South Malt Avenue, City of Commerce, CA. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E.

Ohio Street, Room 429, Indianapolis, IN 46204.

MC 2934 (Sub-29TA), filed May 21, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *New furniture* from the plant site of Hiebert Inc. at or near Torrance, CA to points in the United States (excluding Alaska and Hawaii) for 180 days. Supporting shipper: Hiebert Incorporated, 23605 Tello St., Torrance, CA 90505. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 8535 (Sub-87TA), filed June 15, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin (same address as above). *Iron and steel articles (except in dump vehicles)* from Madison, IN to points in IL, IN, MI and OH, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Jerry L. Grooms, Madison River Terminal, Inc., P.O. Box 253, Madison, IN 47250. Send protests to: W. L. HUGHES, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 13134 (Sub-68TA), filed May 29, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Aluminum and aluminum articles* from the facilities of Kaiser Aluminum & Chemical Corp. at or near Ravenswood, WV to pts. in DE, IL, IN, KY, MD, MI, MO, NJ, OH, PA, VA, WV, WI, DC for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26164. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 52704 (Sub-229TA), filed May 30, 1979. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Glass containers* from Midland Glass Company, Inc., at Cliffwood, NJ, to Houston County, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Mabel E. Holston, T/A, ICC, Suite 1616, 2121 8th Avenue, North, Birmingham, AL 35203.

MC 52704 (Sub-230TA), filed June 13, 1979. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H", LaFayette, AL. 36862 Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Charcoal (except in bulk) and lighter fluid (Naptha Distillate), hichory chips, fireplace logs and vermiculite, other than crude, when moving in mixed shipments with charcoal,* from the facilities of The Kingsford Company at or near Dothan, AL, to points in DC and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 56244 (Sub-85TA), filed May 9, 1979. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 N. Third St., Harrisburg, PA 17108. *Canned and preserved foodstuffs* from facilities of Heinz U.S.A., division of H. J. Heinz Co., at or near Holland, MI, to points in MD, PA on and east of U.S. Hwy 219, and Washington, DC and points in its comercial zone as defined by the Commission; restricted to traffic originating at the named facilities and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: ICC, Fed Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 85934 (Sub-105TA), filed June 11, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48617. *Liquid cleaning compounds,* in bulk, in tank vehicles, from Detroit, MI to York, PA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newbell Industries, 800 South Broadway, Suite 103C, Walnutcreek, CA 94596. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 83835 (Sub-162TA), filed June 15, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander, 5801 Marvin D. Love Fwy., Suite 301, 1st Continental Bank, Dallas, TX 75237. *Lumber, wood products, and millwork* from Spokane, WA to points in AR, KS, KY, LA, MI, MO, OH, OK, PA, TN, and TX for 180 days. Supporting shipper(s): Sunrise Forest Products Company, P.O. Box 25060, Portland, OR 97225. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Forth Worth, TX 76102.

MC 60014 (Sub-123TA), filed June 13, 1979. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, Esquire, 100 East Broad Street, Columbus, OH 43215. *Lumber and finished forest products,* from the plantsite of Weyerhaeuser Corp. at or near Lewiston, Plymouth, Jacksonville, Weyco (near Askin), NC to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, WV, WI and DC, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Weyerhaeuser Company, P.O. Box 787, Plymouth, NC 27962. Send protests to: John J. England, DS, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 95084 (Sub-141TA), filed May 31, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. (1) *Agricultural machinery and materials and supplies, used in the distribution and sale of agricultural machinery (except commodities in bulk),* from the facilities of DewEze Mfg., Inc. at or near Harper, KS to points in the U.S. (except AK and HI); and (2) *materials and supplies used in the manufacture, distribution, and sale of the commodities in (1) above, (except commodities in bulk),* from points in the U.S. (except AK and HI) to the facilities of DewEze Mfg., Inc., at or near Harper, KS for 180 days. Supporting shipper(s): DewEze Mfg., Inc., R.R. #2—P.O. Box 4A, Harper, KS 67058. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 106074 (Sub-116TA), filed June 14, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Canned goods* from the facilities of Woldert Canning, Inc. at or near Lindale, TX to all points in AL, GA, KY, NC, SC, VA and WV, for 180 days. Supporting shipper(s): Woldert Canning, Inc., P.O. Box 1140, Tyler, TX 75701. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 99334 (Sub-5TA), filed June 13, 1979. Applicant: TARHEEL EXPRESS, INC., P.O. Box 8825, Charlotte, NC 28208. Representative: Julian S. Puckett, (same address as applicant). *New furniture in cartons, crates or wrapped* between points and places in the counties of Cabarrus, Alamance, Cherokee,

Cumberland, Davie, Davidson, Forsyth, Gaston, Durham, Cleveland, Halifax, Iredell, Jackson, Lee, Johnson, Mecklenburg, Montgomery, McDowell, Randolph, Rockingham, Richmond, Rowan, Surry, Stanly, Anson, Caldwell, Edgecombe, Catawba, Guilford, Haywood, New Hanover, Henderson, Wilkes, Union, Vance and Wake, NC on the one hand, and on the other, points and places in the counties of Burke, Lincoln, Rutherford, Bumcombe, Chatham, Orange, Scotland, Robeson, Mitchell, Graham, Sampson, Beaufort and Alexander, NC, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority sought herein with its MC 99334. Applicant intends to interline with other carriers at Hickory, Lenoir, High Point, Lexington, Statesville and Greensboro, NC. Supporting shipper(s): Terminal Freight Cooperative Association, P.O. Box 665, Hudson, NC 28638, and Furniture Shippers Association, P.O. Box 854, High Point, NC 27261. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 106074 (Sub-115TA), filed June 12, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and US Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, PO Box 720434, Atlanta, GA 30342. *(1) plastic articles and materials; and (2) materials, equipment and supplies used in the manufacture and distribution of plastic articles* (1) from Forest City, NC to all points in GA, IL and MI and (2) from points in GA, IL and MI to Forest City, NC, for 180 days. Supporting shipper(s): A & E Warbern, Incorporated, Foothill Rd and Vance St., Forest City, NC 28043. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 107515 (Sub-1250TA) filed May 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Foodstuffs* from the facilites of J. M. Smucker Co. at or near Memphis, TN to points in FL, GA, NC, SC, AL, KS, NE, MO, IL and IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. M. Smucker Company, 4740 Burbank, Memphis, TN 38118. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1251TA) filed May 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Foodstuffs (except commodities in bulk)* from facilities of ALEX-XLNT Foods, Inc., Vernon, CA to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ALEX-XLNT Foods, Inc., 2750 East 50th St., Vernon, CA 90058.Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1252TA), filed May 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Foodstuffs (except commodites in bulk)* from facilities of M&M/Mars, Snack-Master Division, at or near Albany, GA to points in AL., AZ, AR, CA, CO, FL, IL, IN, IA, KS, LA, ME, MO, NE, NV, NH, NJ, MN, NY, OK, OR, PA, TX, UT and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M&M/Mars, Snack-Master Division, P.O. Box 3289, Albany, GA 31706. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 109094 (Sub-17TA), filed May 21, 1979. Applicant: GAULT TRANSPORTATION, INC., 2381 Cranberry Highway, Wareham, MA 02571. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. *Odophos in bulk,* from Sayreville, NJ to points in MA, RI, CT, NY, NJ, PA and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Davis Chemicals Division of Davis Water and Waste Industries, Inc., P.O. Box A, 2700 Tallevast Rd., Tallavest, FL 33588. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 109124 (Sub-86TA), filed June 4, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Lime, limestone and limestone products,* from the facilities of Edward Kraemer & Sons, Inc. at Clay Center, OH, to points in PA, WV, IN, IL, MI, and KY, for 180 days. Supporting shipper(s): Edward Kraemer & Sons, Inc., Bolander Rd., Clay Center, OH 43408. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 111045 (Sub-174TA), filed May 29, 1979. Applicant: REDWING CARRIERS, INC., 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). *Chemicals,* in bulk, in tank vehicles from Longview, TX to Lemoyne, AL, for 180 days. An underlyilng ETA seeks 90 days authority. Supporting shipper(s): Virginia Chemicals, Inc., 3340 W. Norfolk Road, Portsmouth, VA 23703. Send protests to: Donna M. Jones, T/A, ICC, Suite 101, 8410 NW 53rd Terr., Miami, FL 33166.

MC 112304 (Sub-190TA), filed May 9, 1979. Applicant: ACE DORAN HAULING AND RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). *(1) Metal roofing and siding and fabricated metal products, and (2) materials and supplies used in manufacture of commodities in (1) above,* (1) From Lancaster, PA, Gridley, IL, Jackson, GA, and Idabel, OK, to points in the U.S. (except AK and HI), and (2) from points in the U.S. (except AK and HI), to Lancaster, PA, Gridley, IL, Jackson, GA, and Idabel, OK, for 180 days. Supporting shipper(s): Alcan Aluminum Corp., P.O. Box 6977, Cleveland, OH 44101. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113784 (Sub-88TA), filed June 12, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland, same address as above. *Hydraulic building cement,* between ports of entry on the U.S.-Canadian boundary line located in MI and NY and points in MI, OH, IN, PA, NY and KY, for 180 days. An underlying ETA seeks 90 days authority. Note: Applicant intends to tack the authority sought herein with its MC–113784. Supporting shipper(s): Federal White Cement Limited, Box 548, Woodstock, Ontario. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 114334 (Sub-54TA), filed June 8, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from the facilities of Inland Steel Co. at East Chicago, IN to points in AR, KY, MO and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland Steel Company, 30 W. Monroe St., Chicago, IL 60603. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main

Street, 100 North Main Building—Suite 2006, Memphis, TN 38103.

MC 115654 (Sub-152TA), filed May 31, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. N.W., Washington, DC 20004. *Refined sugar (except in bulk)* from Kenner and Reserve, LA to points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Godchaux-Henderson Sugar Co., Inc., P.O. Drawer AM R, Reserve, LA 70884. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116254 (Sub-271TA), filed June 13, 1979. Applicant: CHEM–HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Mr. M. D. Miller (same address as applicant). *Cast iron pipe, fittings, valves, hydrants, castings and accessories and parts thereof,* from the facilities of U.S. Pipe and Foundry in Birmingham and Bessemer, AL to KY, MI, OH, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Pipe and Foundry Company, 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 117765 (Sub-264TA) filed June 13, 1979. Applicant: HAHN TRUCK LINE, INC., 100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Malt beverages,* in containers, from St. Louis, Mo, to Hutchinson, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): City Beverage Co., Inc., 317 South Adams, Box 685, Hutchinson, KS 67501. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119634 (Sub-37TA), filed June 12, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant). *Fertilizer,* in bulk and bags, between points in MT, on the one hand, and, on the other, points in WY, ND, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cenex, Plant Food Division, P.O. Box 1321, Billings, MT 59103. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 117574 (Sub-336TA), filed May 22, 1979. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, 100 Pine St., P.O. Box 166, Harrisburg, PA 17108. *Materials, equipment and supplies used in the manufacture, sale and distribution of metal buildings and metal building parts (except commodities in bulk),* from Cleveland, OH, Indiana Harbor, IN, and Hennepin, IL, to the plantsite and storage facilities of Butler Manufacturing Co. at or near Laurinburg, NC, Birmingham, AL, and Kansas City, MO, and Galesburg, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Jones and Laughlin Steel Corp., 1600 W. Carson Ave., Pittsburgh, PA 15263. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 124174 (Sub-150TA), filed June 11, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Hides,* from the facilities of Baker Hide & Fur Company, Inc., at or near Tampa, FL to Laredo, TX; Johnstown and Gloversville, NY; Ontario and Quebec, Canada via Detroit, MI; Buffalo, NY; Port Huron, MI; Rouses Point, NY; Niagra Falls, NY; Lebanon, NH; Peabody and Salem, MA; Tullahoma, TN; Hartland, ME; Wilmington, DE and Newark, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Baker Hide and Fur Co., Inc., P.O. Box 5403, Tampa, FL 33605. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 124774 (Sub-114TA), filed May 30, 1979. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Iron and steel articles,* from Detroit, MI and its commercial zone to Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Phillips Manufacturing Co., Inc., 4601 S. 76th Street, Omaha, NE 68127. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 126514 (Sub-58TA), filed June 15, 1979. Applicant: SCHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Such merchandise as is dealt in by pharmaceutical houses (except commodities in bulk),* between Norwich and North Norwich, NY, on the one hand, and, on the other, points in AZ and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Norwich-Eaton Pharmaceuticals Division, Morton-Norwich Products, 13–27 Eaton Ave., Norwich NY 13815. Send protests to: Ronald R. Mau, Distict Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 133035 (Sub-26TA), filed June 11, 1979. Applicant: DILTS TRUCKING, INC., Route No. 1, P.O. Box 156, Crescent, IA 51526. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Nitrogen fertilizer solution, in bulk,* from the facilities of Agrico Chemical Co. at Blair, NE to all points in IA, MN, and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 133494 (Sub-19TA), filed June 15, 1979. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, TX 76201. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Potash* from Lea and Eddy Counties, MN to points within the states of OK and TX for the 180 days. Supporting shipper(s): There are five (5) supporting shippers. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Forth Worth, TX 76102.

MC 133805 (Sub-27TA), filed June 15, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Plastic and Burlap Articles (except commodities in bulk)* (1) From the facilities of PPD Corporation, at or near Newark, NJ to points in MD, DC, VA, WV, FL, NC, SC, GA, AL, and TN; (2) From the facilities of PPD Corporation at or near Atlanta, GA to points in AL, TN, MS, LA, AR, TX and OK for 180 days. An underlying ETA seeks 90 days authority filed. Supporting shipper(s): PPD Corporation, 574 Ferry Street, Newark, NJ 07105. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134405 (Sub-76TA), filed May 31, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Gasoline and diesel fuel,* in bulk, in tank vehicles, from Coffeyville, KS, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B

& M Oil Company, Inc., P.O. Box 1173, Bartlesville, OK 74003. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134545 (Sub-1TA), filed May 15, 1979. Applicant: FRANK SALERNO, 3400 Bridlepath Rd., Easton, PA 18042. Representative: Frank Salerno (same address as applicant). Contract carrier, irregular routes, *sulphuric acid,* in glass-lined tank vehicles, from Newark, NJ to Edelman, Northampton County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hi-Pure Chemicals, Inc., P.O. Box 351, R.D. #3 (Edelman), Nazareth, PA 18064. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 136384 (Sub-18TA), filed June 14, 1979. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same address as applicant). *Household or commercial appliances, or parts thereof, including, but not limited to the following: Refrigerators, freezers, cooling boxes, ranges, washing machines, dryers, and air conditioners,* between the facilities of General Electric, Atlanta and Norcross, GA, on the one hand, and on the other, points in FL, for 180 days. Supporting shipper(s): General Electric Company, 6205 Best Friend Road, Norcross, GA 30071. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 136605 (Sub-121TA), filed June 13, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Charcoal, charcoal briquettes, hickory chips, lighter fluid, and related barbeque supplies* from the facilities of Husky Industries, Inc., located at or near Dickinson, ND to points in CA, MT, AZ, OR, TX, SD, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 136644 (Sub-9TA), filed May 14, 1979. Applicant: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, CA 94590. Representative: R. D. Davis, President (same address as applicant), (707) 552–8777. *Contract carrier,* irregular routes: *Fiberglas Ceiling Tile* from the plant site of Owens-Corning Fiberglas Corporation at or near St. Helens, OR to points in CA, for 180 days. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 138395 (Sub-11TA), filed April 13, 1979. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Printed matter,* from facility of Middle Atlantic Printing Co., Inc., at or near Salisbury, MD to Phila., PA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Middle Atlantic Printing Co., Inc., 2015 Industrial Parkway, Salisbury, MD 21801. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 No. 7th St., Room 620, Philadelphia, PA 19106.

MC 138875 (Sub-204TA), filed June 6, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Reprsentative: F. L. Sigloh (same address as above). *Sand, except commodities in bulk,* from points in Gem County, ID to points in MT, OR, WA, and WY, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Wedron Silica Co., West of City, Emmett, ID 83617 and C & C Contractors, Inc., P.O. Box 35, Veradale, WA 99037. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-205TA), filed June 13, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Reprsentative: F. L. Sigloh (same address as above). *Brick, except commodities in bulk,* from points in Spokane County, WA to points in ID, in and south of Adams, Lemhi and Valley Counties, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): The Masonry Center, Inc., P.O. Box 7825, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 140665 (Sub-56TA), filed June 12, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: John D. Varda, 121 South Pickney St., Madison, WI 53703. *Paper and paper products (except in bulk), and products (except in bulk) produced or distributed by manufacturers and converters of paper and paper products,* from the facilities of Nekoosa Papers, Inc. in Little River County, AR, to points in AZ, CA, CO, IA, ID, IL, IN, KY, MI, MN, MO, MT, NE, NV, OH, OR, UT, WA, WI, and WY, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 143044 (Sub-3TA), filed March 7, 1979. Applicant: EQUIPMENT EXPRESS LIMITED, 8105 Woodbine Avenue, Markham, Ontario, Canada L3R 2P1. Representative: H. McNamara (same as applicant). *Structural Steel Girders of 85' to 140' in length,* from ports of entry on the international boundary between Canada and United States on the Niagara River to construction site at or near Troy, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Canron Eastern Structural Div., 100 Disco Road, Rexdale, Ontario, Canada. Send protests to: Richard Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 143325 (Sub-3TA), filed June 5, 1979. Applicant: THOMAS L. ROLLANS, P.O. Box 365, Bryant, AR 72022. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, AR 72902. *Concrete building blocks* from the plant sites and storage facilities of Arkhola Sand & Gravel Company at or near Little Rock, AR to Odessa and Waco, TX, for 180 days as a contract carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arkhola Sand & Gravel Company, a Divison of Ashland-Warren, Inc., P.O. Box 1627, Garrison Building, Fort Smith, AR 72902. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143334 (Sub-2TA), filed May 30, 1979. Applicant: WALTEC DISTRIBUTION LIMITED, P.O. Box 936, 471 Dundas Street, Cambridge, Ontario N1R 5X9. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. Contract carrier—irregular routes. *(1) Molds for plastic injection machines, and (2) plastic articles,* between Chicago, IL, on the one hand, and, on the other, ports of entry on the International Boundary line between the US and Canada at or near Detroit, MI, restricted to the transportation of traffic in foreign commerce between the United States and Canada, transported under a continuing contract or contracts with Midland Industries Limited, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Midland Industries Limited, 682 Hugel Avenue, Midland, Ontario L4R 1W9. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 143754 (Sub-6TA), filed June 5, 1979. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Liquid fertilizer and liquid fertilizer ingredients, in bulk, in tank vehicles, from the facilities of U.S. Steel Corporation, Agri-Chemical Div., at or near Selma and Waverly, MO to all points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 233 Peachtree St. NE., Atlanta, GA 30303. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144844 (Sub-7TA), filed June 4, 1979. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603. Iron and steel articles from the facilities of Jones & Laughlin Steel Company at or near Chicago, IL commercial zone to points in IL, KS, KY, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corporation, 3001 Dickey Rd., E. Chicago, IN 46312. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 143754 (Sub-7TA), filed June 15, 1979. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. *Liquid feed,* in tank vehicles, from the facilities of Farmland Industries, Inc., Kansas City, KS (Muncie, KS) to points in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 143995 (Sub-17TA), filed June 11, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Dr. Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority—*Malt beverages* from the facilities of Anhueser-Busch, Inc. at Kansas City and St. Louis, MO and Columbus, OH, and from Fort Wayne, Belleville and Evansville, IN to Galesburg, IL under continuing contract(s) with G & M Distributors, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G & M Distributors, Inc., 200 N. Linwood Rd., Galesburg, IL 61401. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145054 (Sub-19TA), filed June 12, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Absorbents, in bags,* from Taft and McKittrick, CA to points in CO and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Excel-Mineral Company, P.O. Box 4548, Santa Barbara, CA 93103. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145195 (Sub-4TA), filed June 12, 1979. Applicant: DEEJAY TRANSPORTATION, INC., P.O. Box 651, Horace, ND 58047. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Non-alcoholic beverages,* from the facilities of Shasta Beverages, Inc., at or near Omaha, NE, to points in ND, SD, WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shasta Beverages, Inc., 4400 S. 76th Street, Omaha, NE 68127. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146075 (Sub-1TA), filed June 12, 1979. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 29th Place, Wheat Ridge, CO 80214. Representative: Edward C. Hastings, 666 Sherman St., Denver, CO 80203. *Paint* from Houston, TX and Denver, CO to points in UT for 180 days. An underlying ETA filed seeking 90 days authority. Supporting shipper(s): Devoe & Reynolds Co., 4000 Du Pont Circle, Louisville, KY 40207. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146725 (Sub-3TA), filed May 15, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. (1) *Pultruded FRP Fiberglass products* from Bristol, VA to Houston, TX, and (2) *electrical and instrument cable suspension trays* from Houston, TX to points in AR, LA, MS and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): JBC Enterprises, Inc., 1115 Naylor, Houston, TX 77002. Send protest to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt City, UT 84138.

MC 146875 (Sub-1TA), filed May 8, 1979. Applicant: K & L Grain, Inc., Rural Route #2, Box 32A, Franklin, IN 46131. Representative: Richard E. Aikman, Jr., 300 Merchants National Bank Bldg., Indianapolis, IN 46131. Contract carrier: Irregular routes: *Feed ingredients. Products of wheat milling viz: Wheat Middlings, Wheat Red Dog, Wheat Germ, Wheat Bran, Wheat Flour,* in Bulk or bags, from the facilities of Acme-Evans Division of General Grain, Inc., 902 West Washington Street, Indianapolis, IN, to points and places within the State of KY for 180 days. Supporting shipper: Acme-Evans Company, 902 W. Washington Ave., Indianapolis, IN 46204. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 146994 (Sub-1TA), filed June 12, 1979. Applicant: MOTOR—RAIL DELIVERY, INC., 600 Fern Street, Ferndale, MI 48220. Representative: William R. Ralls, 427 S. Capitol Avenue, Lansing, MI 48220. *Plastic containers* in trailer on flat car service having a prior or subsequent movement by rail beyond Michigan, between Detroit, MI and Coleman, MI. Ultimate destinations are Houston, TX, Dallas, TX, and Los Angeles, CA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vercon, Inc., 57 W. Shaffer road, Coleman, MI 48618. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147205 (Sub-2TA) filed May 16, 1979. Appliant: RUSSELL E. BASTIAN, d.b.a. BASTIAN TRUCKING, P.O. Box 1143, Aurora, UT 84620. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Contract carrier: Irregular route: *Sea coal and clay,* in bags, from Aurora, UT to CA, WA, and AZ, under a continuing contract or contracts with Western Clay, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Clay, Aurora, UT 84620. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 147355 (Sub-1TA), filed June 13, 1979. Applicant: TYCER LIVESTOCK, INC., P.O. Box 601, Amite, LA 70422. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. Applicant is seeking authority to operate as a contract carrier over irregular routes transporting (1) *Fertilizer, in bags and in bulk,* from

Jackson, MS to all points in LA; and (2) *Ammonium nitrate in bags and in bulk,* from Beaumont, TX to all points in LA, for 180 days. This will be under a continuing contract or contracts with Swift Agricultural Chemicals Corporation. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Swift Agricultural Chemicals Corp., 30 N. LaSalle, Chicago, IL 60602. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147394 (Sub-1TA), filed June 8, 1979. Applicant: COASTAL REFRIGERATED SERVICE, INC., 34 Market Street, Room 30, Everett, MA 02149. Representative: Joseph F. Nomile, 71 Cale Avenue, Haverhill, MA 01830. *Contract carrier,* irregular routes, *paint products and/or raw materials utilized in the manufacture and production of paint products.* Between: Everettt, MA and: Lewiston, ME, Augusta, ME, Rochester, NY, Montclair, NJ, Bridgeport, CT, Westport, CT, Philadelphia, PA, Carlisle, PA, Erie, PA, Atlanta, GA, Vienna, VA, Nashville, TN, Miami, FL, Dallas, TX, Ogden, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Touraine Paints, Inc., Everett, MA 02149. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147394 (Sub-2TA), filed June 8, 1979. Applicant: COASTAL REFRIGERATED SERVICE, INC., 34 Market Street, Room 30, Everett, MA 02149. Representative: Joseph F. Nomile, 71 Cale Avenue, Haverhill, MA 01830. *Contract carrier,* irregular routes, (1) *paint products and/or materials utilized in the manufacture and production of paint products,* (2) *petroleum products.* Between Chelsea, MA and Brisbane, CA, Bell Gardens, CA, Melrose Pk., IL, Minneapolis, MN, Marietta, GA, Charlotte, NC, Houston, TX, Fort Lauderdale, FL, Richmond, VA, Grand Rapids, MI. Supporting shipper(s): Samuel Cabot Inc., 1 Union Street, Boston, MA 02108. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147394 (Sub-3TA), filed June 8, 1979. Applicant: COASTAL REFRIGERATED SERVICE, INC., 34 Market Street, Room 30, Everett, MA 02149. Representative: Joseph F. Nomile, 71 Cale Avenue, Haverhill, MA 01830. *Contract carrier,* irregular routes, (1) *Office equipment, steel office furniture, and office equipment components utilized in the manufacture and production of office equipment,* (2) *Photo paper and film,* (3) *Photographic Chemicals.* Between: Reading, MA, including Essex and Middlesex Counties, and, Pinebrook, NJ, Decator, GA, Arlington Heights and Chicago, Proper, IL, Englewood, CO, Dallas, TX, Cerritos, CA, Redmond, WA, Orlando, FL, Bloomington, MN, Hayward, CA, Springfield, VA, Shawnee Mission, KS, Cincinnati, OH, Richmond, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Compugraphic, ASD, North Reading, MA 01864. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147364 (Sub-1A), filed June 11, 1979. Applicant: P. W. McCULLERS TRUCK BROKERS, INC., 6010 Avery Street, Orlando, FL 32808. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. *Contract carrier,* irregular routes, *Fruits and vegetables, in vehicles equipped with mechanical refrigeration units,* between ports of Entry and Departure at the United States of America and Canada, located at or near Houlton, ME and Calais, ME, on the one hand, and on the other points in ME, MA, CT, NJ, NY, PA, RI, MD, VA, DC, NC, SC, OH, GA, FL, AL, TN, MS, LA, TX, NM, AZ, CO, CA, MO, DE, NH, and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. M. McLean Limited, P.O. Box 1111, Charlottetown, P.E.I. C1A 7M8. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-21962 Filed 7-16-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 138
Tuesday, July 17, 1979

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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[M-235, July 10, 1979]

CIVIL AERONAUTICS BOARD.

Short notice of closure of item.

TIME AND DATE: 9 a.m., June 11, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Negotiations with Pakistan (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Pakistan consultations will be held beginning on July 12. The short notice request is necessary because of the immanence of the consultations and because we were first informed on the negotiation dates on June 26. Accordingly, the following Board Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This meeting concerns strategy and positions to be taken by the United States in negotiations with Pakistan. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Steven H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, and Mr. Peter B. Schwarzkopf.
Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Rosario J. Scibilia, Mr. Willard L. Demory, Mr. James McMahon, and Mr. Douglas Leister.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia Kennedy.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that this meeting may be closed to public observation.

Philip J. Bakes, Jr.,
General Counsel.

[S-1416-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

2

[M-235, Amdt. 1; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item.

TIME AND DATE: 9 a.m., July 11, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Negotiations with Pakistan (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: On July 10, 1979, the staff requested for this item to be scheduled on July 11 as a closed item in order to consider the Board's recommendation to the Department of State on the Pakistan talks. These talks are scheduled to begin on July 12. The staff's recommendation was delivered to the Board in the late afternoon on July 11, after the meeting announcement was posted. In view of the routine nature of the recommendation, the Board subsequently decided to vote by notation and a meeting was no longer necessary. Accordingly, the following Members have voted that this item be deleted and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1417-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

3

[M-233, Amdt. 2; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the July 12, 1979, meeting.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 23b. Docket 32851, Agreements adopted by the International Air Transport Association relating to the traffic conferences.

STATUS:

Partially open and partially closed.

Open—Extension of Procedural Dates.
Closed—Invitations Participants.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Chairman will not be here for the July 19, 1979 meeting and the meetings concerning IATA will start July 22, so this item should be discussed at the July 12, 1979 meeting. Accordingly, the following Members have voted that

agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

The Board will also discuss who it plans to invite to participate in its October, 1979 hearings in this proceeding. A frank discussion of individuals and their value to the Board in this context is anticipated. So that a full discussion can take place without harm to any person's reputation or privacy and because observation of this matter might disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy within the meaning of 5 U.S.C. 552b(c)(6) and 14 CFR 310b.5(6), this portion of the meeting should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, and Mr. Mark Kahan.
Bureau of International Aviation.—Mr. Sanford Rederer and Mr. Rosario J. Scibilia.
Bureau of Domestic Aviation.—Mr. Paul H. Karlsson and Mr. Charles McNagny.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia Kennedy.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(6) and 14 CFR 310b.5(6) and that this meeting may be closed to public observation.

Philip J. Bakes, Jr.,

General Counsel.

[S-1418-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

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[M-233, Amdt. 3; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 25. Dockets 29525 and 30332; Disposition of the Board's tentative findings in Order 76-11-9, which would apply the domestic substitute service rules to the U.S. legs of international air freight movements; and IATA agreement proposing restrictions on the use of surface transportation on the U.S. legs of South Pacific air freight movements (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: This item is being deleted from the July 12, 1979 agenda in order that the staff may have additional time to consider this item. Accordingly, the following Members have voted that agency business requires the deletion of this item from the July 12, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1419-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

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[M-233, Amdt. 4; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item and closure of item to the July 12, 1979, meeting.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 24a. Removal of Requirement that Service Between the United States and Europe stop at Iceland. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Interagency Committee is going to reconsider the pending matter of allowing Loftleidir, H.F. to operate between the United States and Europe without stopping at Iceland, and the Board's policy concerning this matter needs to be dealt with at today's meeting (July 12, 1979). Accordingly, the following Members have voted that Item 24a be added to the July 12, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments, of opinions, evaluations and strategies discussed in connection with this item could seriously compromise the United States Government's ability to achieve future bilateral understandings which would be in the best interests of the United States. The Board, therefore, believes that public observation of this meeting would reveal matters which, if prematurely disclosed, could significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR 310b.5(9)(B) and that this meeting should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Steven H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Mark Kahan, Mr. Gary J. Edles, and Mr. Peter B. Schwarzkopf.
Bureau of International Aviation.—Mr. Sanford Rederer and Mr. Rosario J. Scibilia.
Bureau of Domestic Aviation.—Mr. Paul H. Karlsson and Mr. Charles McNagny.
Bureau of Consumer Protection.—Mr. Rueben B. Robertson and Ms. Patricia Kennedy.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR 310b.5(9)(B) and that this meeting may be closed to public observation.

Philip J. Bakes, Jr.,

General Counsel.

[S-1420-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

6

[M-233, Amdt. 5; July 13, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the July 12, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

4. Docket 32566, *Alice D. Wallace* v. *Capitol International Airways, Inc.*, discretionary review, on BCP petition, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo 8962, OGC)

5. Docket 31622 and 31625, *Michael David Beeler and Morton Rosenberg* v. *Delta Air Lines, Inc.* discretionary review, on petitions, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding (Memo 8961, OGC)

21. Docket 34762, Application of Andrall E. Pearson and Trans World Airlines, Inc. (TWA) for approval of interlocking relationships involving TWA and PepsiCo., Inc. (PepsiCo) and for disclaimer of jurisdiction over those involving TWA and Trans World Corporation (TWC). (Memo 8954, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: These items were deleted from the July 12, 1979 meeting because the staff needs additional time to consider these items. Accordingly, the following Members have voted that agency business requires the deletion of items 4, 5, and 21 from the July 12, 1979 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1421-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

7

[M-233 Amdt. 6; July 13, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the July 12, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1a. Docket 34226, Amendment to application of Eastern Air Lines, Inc. for approval of acquisition of control of National Airlines, Inc.

18a. Docket 34812, United's notice of intent to suspend Bakersfield-San Francisco service. (Memo 8415-D, BDA, OCCR)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 1a was added because Eastern assumed that they were free to buy as much stock as Pan Am and TXI unless they heard otherwise from the Board. The Board wanted to act on this as quickly as possible. By Order 79-7-44, the Board required United to resume its obligations in the Bakersfield-San Francisco market to ensure that essential air service is provided through August 6. The staff was subsequently advised that the replacement carrier, Air Pacific, would not be able to provide its full Dash 7 service pattern until July 16. Item 18a was added to July 12, meeting to alleviate further inconvenience to the traveling public. Accordingly, the following Members have voted that agency business requires that Items 1a and 18a be placed on the July 12 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1422-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

8

[M-236, July 12, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notiation.

2. Docket 35054, Consumer Protection for Old-rule Charters. (OGC, BCP)

3. Freedom of Information Act Request. Counsel for Texas International Airlines, Inc. has requested access to document which contain information derived from records obtained during an inspection pursunt to Section 407(e). (BCP)

4. Proposed temporary waiver of Board rules requiring employees to file confidiential statements of financial interests and employment under 14 C.F.R. 370.735-73 (OGC)

5. Dockets 31622 and 31625, *Michael David Beeler* and *Morton Rosenberg* v. *Delta Air Lines, Inc.*, discretionary review, on petitions, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo No. 8961, OGC)

6. Docket 32566, *Alice D. Wallace* v. *Capitol International Airways, Inc.*, discretionary review, on BCP petition, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo No. 8962, OGC)

7. Docket 34397, *Rulemaking to Consider Eliminating Minimum Rates for Military Transportaion, Parts 288, 208 and 399*—draft final rule. (OGC, BDA)

8. Docket 35117, Petition of Hawaiian Airlines for a rulemaking proceeding to increase the minimum rates for Logair and Quicktrans Services. (Memo No. 8923, BDA, OGC)

9. Interpretation of Public Charter regulations on surety bonds. (OGC)

10. Docket 32665, California/South West-Western Mexico Route Proceeding (Part II). Request for Instructions. (OGC)

11. Docket 30170, *West Coast-Alaska Investigation*—applications for certificate authority deferred by Order 79-4-36. (OGC)

12. Dockets 33275 and 32709; *New Orleans-West Service Investigation; Tucson-San Diego Nonstop Route Investigation*, Petitions of Continental Air Lines for reconsideration. (Memo No. 8973, OGC)

13. Docket 35090, International Air Cargo Corporation, Egypt (IACC)—Application and Motion for show cause order to amend the 402 permit of IACC to allow New York-Cairo operations via Amsterdam. (BIA, OGC)

14. Dockets 34332 and 34311; Applications of Alia—the Royal Jordanian Airlines Corporation (Alia) and Syrian Arab Airlines (Syrianair) to renew and amend their permits to add Houston to their route schedules, to increase their weekly frequencies from two to four, and to add Public Charters. (Memo No. 8978, BIA, BLJ, OGC)

15. Dockets 33100 and 32333; Application of American Airlines, Inc. to amend its certificate for Route 134 to add Manzanillo and Zihuatanejo, Mexico and to amend Condition (5) to reflect the added routes; Application of American Airlines, Inc. to amend its certificate for Route 134 to amend Condition (5) of that route. (Memo No. 8381-A, BIA, OGC, BLJ)

16. Dockets 33502, 33611, 33736, 33916, 33928, 34669, 34914, 33993, 34076, 34888, 34896, 34902, 34904, 34905, 35076, and 33958; Braniff, Northwest, Continental, Allegheny, Ozark, TXI, Western, Delta, American, Southern, and North Central, requesting Dallas/Fort Worth/Houston-Detroit/Cleveland/Pittsburgh certificate authority in whole or in part. (Memo No. 8470-A, BDA

17. Dockets 34623, 34890, 34975, 35055, 35065, and 35557; United's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority; Ozark's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Continental's application for Denver-

Orlando/Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Western's application for Denver/Chicago/Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami nonstop authority and motion to consolidate; National's application for Denver/Colorado Springs-Fort Lauderdale/Miami/Orlando/Tampa nonstop authority and motion to consolidate; Trans International's application (in part) for Chicago-Orlando/Tampa/Miami nonstop authority and motion to consoldiate (the balance of this application is to be dealt with by separate order). (Memo No. 8974, BDA)

18. Dockets 33142, 33166, and 33143; Applications of Air Florida for certificates to perform charter air transportation domestically and throughout North America and the Caribbean; Request of Air Florida for blanket exemption authority to engage in the charter operations described above pending decisions on its certificate requests. (BDA)

19. Dockets 33928, 33958, 34029, and 34205; Applications of Allegheny and Ozark for Pittsburgh-Houston-El Paso-Albuquerque-San Diego certificate authority; Allegheny's application for Houston-Pittsburgh exemption authority. (Memo No. 8975, 8975–A, BDA)

20. Dockets 35306, 35536, 35456, and 35647; Applications of American and Ozark for Dallas/Fort Worth-San Antonio authority; Applications of Continental and USAir for Dallas/Fort Worth-San Antonio/Austin/Houston nonstop authority. (Memo No. 8976, BDA)

21. Dockets 35368 and 35543; TXI's application for Salt Lake City-Reno authority; PSA's application for Salt Lake City-Las Vegas/Reno authority. (BDA)

22. Docket 35137, Trans World Airlines' request for an exemption to permit it to operate nonstop service between Seattle and Portland until 60 days after the Board's final decision in Docket 33520. (Memo No. 8979, BDA)

23. Dockets 33826, 34086, 34145, 34174, 33894, 34696, 34687, 34704, 34690, 34694, 34718, 34750, 34659, 34303, 34698, and 34693; Continental's petition for clarification and reconsideration of Order 79–5–82. (Memo No. 8432–B, BDA)

24. Docket 35736, Capitol International Airways, Inc. request for an exemption. (BDA)

25. Dockets 34751 and 35546; Piedmont's notice of intent to suspend air service at Danville, Virginia, and motion and application for exemption to allow it to suspend service at Danville by July 1, 1979. (BDA)

26. Docket 34591, Essential Air Transportaion at Hot Springs, Virginia. (BDA, OCCR)

27. Docket 34832, Interim Essential Air Service at Crescent City, California. (BDA)

28. Dockets 32773, 33026, 33508, 34333, 34349, 34350, and 34465; Allegheny Airlines' petitions for reconsideration of Orders 79–2–108 and 79–3–166. (Memo No. 8984, BDA, OCCR, OGC, BCP)

29. Proposed regulation governing fitness data to be submitted with route applications for passenger service and by commuter carriers serving an eligible point. (BDA)

30. Dockets 34007, 34371, 34420, 34520, 35031, 35083, 35333, and 35369; Burlington Northern Air Freight Inc., Northern Air Cargo, Inc., Delta Air Lines, Inc., Ball Brothers, Inc., Continental Air Lines, Inc., Aero Union Corporation, Great Northern Airlines, Inc., and USAir, Inc. d.b.a. USAir—certification as section 418 all-cargo air carriers. (BDA)

31. Docket 34762, Application of Andrall E. Pearson and Trans World Airlines, Inc. (TWA) for approval of interlocking relationships involving TWA and PepsiCo., Inc. (PepsiCo) and for disclaimer of jurisdiction over those involving TWA and Trans World Corporation (TWC). (Memo No. 8954–A, BDA)

32. Dockets 32338, 32339, and 32340; Joint applications of Neil A. Armstrong, United Air Lines, Inc., and UAL, Inc., for approval of interlocking relationships under section 409 of the Act. (BDA, OGC)

33. Docket 35040, Application of Alaska International Industries, Inc., and Robert N. Hampton for disclaimer of jurisdiction over, approval, or exemption of an interlocking relationship. (Memo No. 8977, BDA, OGC, BCP)

34. Proposal of Air Florida to allow unrestricted reservations for its senior citizen fares. (BDA)

35. Docket 35935, Increased excess baggage charges in certain Caribbean and Central American markets proposed by Eastern. DHL, air courier, complains that the proposed level is not cost-justified (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068

[S–1424–79 Filed 7–13–79; 3:25 pm]

BILLING CODE 6320–01–M

9

[M–237, July 13, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: July 21, 1979, 1 p.m.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: Docket 33465—Continental-Western Merger Case (instructions to staff).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

Note.—Please use the Florida Avenue entrance. The Connecticut Avenue entrance is closed on Saturday.

[S–1424–79 Filed 7–13–79; 3:25 pm]

BILLING CODE 6320–01–M

10

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., July 20, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1427–79 Filed 7–17–79; 8:45 am]

BILLING CODE 6351–01–M

11

NATIONAL RAILROAD PASSENGER CORPORATION

Board of Directors Meeting.

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad passenger Corporation, notice is given that the Board of Directors will meet on July 25, 1979.

A. The meeting will be held on Wednesday, July 25, 1979, in the National Guard Association Building, 3rd Floor, 1 Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—July 25, 1979

Closed session (9:30)

1. Internal personnel matters.
2. Litigation matters.

Open session (10:30)

3. Approval of minutes of regular meeting of June 27, 1979.
4. Election of Vice Chairman of the Board.
5. Approval of affirmative action plan.
6. Commitment approval requests:

79–99 Adopt BN material management system.

79–101 Capital improvements—Ogden/Los Angeles Service.

77–242–S3 Supplemental funding for Chicago, Illinois; modernization of 12th and 16th Street Yards, Phase IIIA.

79–78 Conversion and modification of hi-level transition coaches.

79–102 Cant deficiency testing.

77–266–S4 Completion of EMD contract for 30 AEM7 locomotives.

7. Presentation on Equipment Requirements
8. Report on Air Conditioning and Maintenance Systems.

9. Board Committee Reports: Equipment, Finance, Northeast corridor improvement project, and Organization and compensation.
10. President's Report.
11. New business.
12. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Assistant Corporate Secretary at (202) 383–3991.

Dated: July 13, 1979.

Barabara Willman,

Assistant Corporate Secretary.

[S–1414–79 Filed 7–13–79; 3:25 pm]

12

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Wednesday, July 18, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Oral Argument and closed instruction following Oral Argument.

MATTERS TO BE CONSIDERED:

The Commission will hold a closed meeting on Wednesday, July 18, 1979, for the purpose of issuing instructions to the staff following oral argument in RKO General, Inc. (WNAC–TV, Channel 7), Boston, Mass. proceeding (Docket numbers 18759–61).

Oral Argument, which is open to the public, is scheduled to start at 10:30 a.m. in Room 856, 1919 M Street, N.W., Washington, D.C. (see News Release of June 21, 1979, Report Number 18698).

The closed meeting will take place in Room 856 at the same address after the conclusion of the oral argument.

If additional information is required concerning this meeting it may be obtained from FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: July 12, 1979.

[S–1411–79 Filed 7–13–79; 11:49 am]

BILLING CODE 6712–01–M

13

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., July 12, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202–377–6677).

MATTERS TO BE CONSIDERED:

Consideration of Request to Employ Individual Convicted of a Felony.

Announcement is being made at the earliest practicable time.

No. 252, July 12, 1979.

[S–1410–79 Filed 7–13–79; 11:49 am]

BILLING CODE 6720–01–M

14

FEDERAL MARITIME COMMISSION.

TIME AND DATE: July 13, 1979, 9 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Legislative Proposals.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1409–79 Filed 7–13–79; 11:49 am]

BILLING CODE 6730–01–M

15

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, July 20, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchases, under compeitive bidding, of computer equipment within the Federal Reserve System.
2. Federal Reserve Board officer compensation program.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. 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.

[S–1412–79 Filed 7–13–79; 11:49 am]

BILLING CODE 6210–01–M

16

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 3 p.m., Tuesday, July 17, 1979 [NM–79–23].

PLACE: Room 312A, 800 Independence Avenue, S.W., Washington, D.C. 20591.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Request for Public Hearing—Air New England, DHC–6–300, N383EX, Yarmouthport, Mass., June 17, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

July 13, 1979.

[S–1415–79 Filed 7–13–79; 3:25 pm]

BILLING CODE 4910–58–M

17

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: July 16, 1979 at 9:30 a.m.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634–4015.

Dated: July 13, 1979.

[S–1425–79 Filed 7–13–79; 3:25 p.m.]

BILLING CODE 7600–01–M

18

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 37431.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m. on July 12, 1979.

CHANGES IN THE MEETING: This meeting is canceled. It will be rescheduled at a later date to be announced.

Dated: July 12, 1979.

[S–1406–79 Filed 7–13–79; 11:49 am]

BILLING CODE 7600–01–M

19

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 37431, June 26, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m. on July 19, 1979.

CHANGES IN THE MEETING: This meeting has been rescheduled for July 20, 1979, at 9:30 a.m.

Dated: July 13, 1979.

S–1426–79 Filed 7–13–79; 3:25 pm]

BILLING CODE 7600–01–M

20

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES.

Information Organization Heads Meeting.

TIME: 9 a.m.

DATE: August 1, 1979.

PLACE: Washington Hilton Hotel, Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Second in a series of meetings in which participants discuss the following:

Means for effectively involving each organization in the White House Conference process.

Issue positions with input from organizational memberships, which will be accepted by the White House Conference as formal input to its planning.

Participating organizations' roles in implementing recommendations of the White House Conference.

CONTACT PERSON FOR MORE INFORMATION: Heather Nicoll, Coordinator, (202) 653–6252.

July 9, 1979.

Marilyn K. Gell,

Director.

[S–1413–79 Filed 7–13–79; 3:25 pm]

BILLING CODE 7527–01–M

federal register

Tuesday
July 17, 1979

Part II

Department of Health, Education, and Welfare

Health Care Financing Administration and Office of Human Development Services

Federal Health Insurance for the Aged and Disabled; and Social Services Programs for Individuals and Families

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 405, 420, 431, and 455

Medicare and Medicaid Providers; Disclosure of Information and Access to Provider Records; Requirements and Conditions for Participation

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

ACTION: Final Regulation.

SUMMARY: These regulations establish new requirements for disclosure of information by institutions and organizations providing services under Medicare and Medicaid (titles XVIII and XIX of the Social Security Act). The regulations:

1. Require Medicare and Medicaid providers and fiscal intermediaries or fiscal agents to disclose to the Secretary or the State Medicaid agency certain information about owners, employees, subcontractors, and suppliers;

2. Authorize the Secretary or the State agency to refuse to enter into or renew an agreement with a provider if any of its owners, officers, directors, agents, or managing employees has been convicted of a criminal offense involving any of the programs under titles XVIII, XIX, or XX of the Social Security Act;

3. Authorize the Secretary or the State agency to terminate an agreement with a provider that failed to disclose fully and accurately the identity of any of its owners, officers, directors, agents, or managing employees who have been convicted of a program-related criminal offense at the time the agreement was entered into;

4. Require that a provider of services under Medicare promptly notify the Secretary of its employment of an individual who during the preceding year worked for that provider's fiscal intermediary or carrier in a managerial, accounting, auditing, or similar capacity; and

5. Authorize access by the Secretary to Medicaid providers' records.

The regulations implement sections 3, 8, 9, and 15 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (P.L. 95–142). The purpose of the statute is to strengthen the Department's capability to detect fraudulent activities in Federal health care programs.

EFFECTIVE DATE: These regulations are effective on July 17, 1979 for Medicare and on October 15, 1979 for Medicaid.

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 588 East High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, Phone: (301) 594–5415.

SUPPLEMENTARY INFORMATION: Public Law 95–142 contained several provisions designed to prevent and detect fraud and abuse and to preserve the integrity and improve the effectiveness of the Medicare and Medicaid programs. Some of these provisions apply as well to the maternal and child health and the crippled children's services programs (title V of the Social Security Act) and the title XX services program.

This rule is one of a number of regulations promulgated by the Department to implement P.L. 95–142. it encompasses four provisions of P.L. 95–142—sections 3, 8, 9, and 15—which deal with disclosure of information to the Department by health care providers and fiscal agents involved in the Medicare and Medicaid programs.

In addition to the new regulations to implement P.L. 95–142, this rule revises the existing Medicare regulation (42 CFR 405.603) authorizing the Department to refuse a provider agreement to a provider which is bankrupt or insolvent. This revision is intended to improve clarity and understanding without making any substantive changes.

Elsewhere in this issue of the **Federal Register** are rules for the Maternal and Child Health and the Crippled Children's Services (MCH–CC) programs implementing section 3 of P.L. 95–142; and for title XX services programs, implementing sections 3 and 8.

All of these rules have been developed cooperatively among the Health Care Financing Administration, the Public Health Service, and the Office of Human Development Services in order to achieve as much consistency as possible. This preamble attempts to deal with the issues pertaining to all these programs in order to avoid repetition in the preambles for the other rules.

The statutory provisions being implemented are as follows:

A. *Disclosure of ownership and related information.*—Section 3 requires specified agencies and institutions (known as "disclosing entities") to disclose certain ownership information to the Secretary or to the appropriate State agency as a condition to their participation in the Medicare, Medicaid, MHC–CC, or title XX services programs. Section 3 also requires that health care providers disclose certain information about their business transactions.

1. *Disclosing entities.*—The statutory definition includes hospitals, skilled nursing facilities, clinical laboratories, renal disease facilities, health maintenance organizations, and rural health clinics (as established by P.L. 95–210) under Medicare; entities (other than practitioners or groups of practitioners) that furnish or arrange for the furnishing of services under the Medicaid or title V MCH–CC programs; fiscal intermediaries, fiscal agents, and carriers participating in Medicare or Medicaid; and providers of health-related services under title XX.

2. *Ownership information that must be disclosed.*—The statute requires that a disclosing entity provide the names of any person with an ownership or control interest in the entity or in a subcontractor in which the entity has at least a 5 percent ownership interest.

3. *Identification of common ownership.*—The statute also requires that, to the extent determined by the Secretary to be feasible, a disclosing entity must report on whether any of the persons whom it must identify as having an ownership or control interest in itself also has an ownership or control interest in another disclosing entity. Such information is to be disclosed to the extent an entity can obtain it by making a written request of those people having an ownership or control interest in the entity.

4. *When the information must be disclosed.*—The statute requires that ownership information noted above must be supplied to the Secretary or the appropriate State agency as a condition for participation in, certification or recertification for, or approval of a contract or agreement under any of the programs established under title V, XVIII, XIX, or XX. This is to be implemented by requiring every disclosing entity to submit the information routinely, at specified intervals. We are following the congressional intent by requiring disclosing entities to supply the information as part of either the certification or the contractual process, depending on the nature of the disclosing entity. Those entities which, as providers or suppliers of services, are surveyed annually for compliance with Federal and State standards would be required to furnish the information to the survey agency. Disclosing entities subject to this procedure include hospitals, nursing homes, intermediate care facilities, home health agencies, outpatient clinics, independent clinical laboratories, renal disease facilities and

rural health clinics. The survey agency will give the information to HCFA, which would be responsible for collecting and compiling the information on all disclosing entities. Since health maintenance organizations and Medicare fiscal intermediaries and carriers enter into contracts with HCFA, ownership information will be obtained directly from these disclosing entities.

Updated information may be requested by the Secretary or the State at intervals between recertifications or contract renewals.

5. *Requirements for disclosing information about business transactions.*—Section 3 of Pub. L. 95–142 also requires a health care provider under Medicare, Medicaid, or title XX to comply with a request from the Secretary or appropriate State agency for information about the ownership of any subcontractor with whom the provider has had more than $25,000 in business transactions during the previous 12 months or for any information as to any significant business transactions occurring during the previous 5 years between the provider and a subcontractor or a wholly-owned supplier.

6. *Consequences of failure to disclose information.*—As noted above, the requirement to disclose ownership and control information is stated in the statute as a condition for participation, certification, or approval of any agreement between the disclosing entity and the Secretary or the State agency. Therefore, the Secretary will not approve or renew a Medicare agreement with any provider, fiscal intermediary, or carrier that failed to supply such information. Moreover, in the case of hospitals and other Medicare providers whose agreements or eligibility is not renewed annually, the Secretary will terminate their existing provider agreements or eligibility if they failed to supply the information to the survey agency.

Similar provisions apply for the Medicaid, MCH–CC, and the title XX services programs. A State Medicaid agency, a State title V agency, or a State title XX agency will not approve or renew an agreement with a provider or fiscal agent that fails to supply required information. These State agencies are also authorized to terminate a provider agreement or other contract with any disclosing entity that fails to submit the information when required. Since supplying ownership information is a precondition for participation, the Department will withhold Federal financial participation in Medicaid, title V, or title XX payments to providers who fail to furnish the information.

The statue imposes the requirement on Medicare providers to disclose information about business transactions by authorizing the Secretary to terminate the Medicare provider agreement for any provider who fails to comply with a request for that information. The regulation establishes the Medicare provider's obligation to disclose this information by treating the failure to disclose as grounds for terminating a provider agreement. For Medicaid and title XX, the statute mandates that the State plan requires a provider to furnish the information on business transactions upon request by the Secretary or the State agency. The statute also precludes Federal financial participation in any Medicaid or title XX payments made to a provider who has failed to comply with a request from either the Secretary or the State agency. The regulation follows these statutory requirements.

B. *Disclosure of owners and certain other individuals convicted of certain offenses.*—Section 8 of P.L. 95–142 requires that as a condition of participation in Medicare, Medicaid, or the title XX services program all institutional providers of services must disclose to the Secretary or appropriate State agency the name of any owner, officer, director, agent, or managing employee who has been convicted of a criminal offense related to his involvement in these programs.

1. *Persons who must be identified.*—With respect to Medicare and Medicaid, the persons who must be identified under section 8 (if they have a criminal conviction) are the same as those who must be disclosed under section 3, plus agents and managing employees. As explained in the regulation for title XX, the types of providers covered under that program are broader.

2. *Date of conviction.*—The regulation requires the identification and disclosure of any convictions which occurred since the date of inception of Medicare (July 1, 1966), Medicaid (January 1, 1966), or the services program (October 1, 1975).

3. *When information must be disclosed.*—The information must be furnished to the Secretary before a Medicare provider agreement is approved or renewed, to a State Medicaid agency before participation in medicaid is approved or renewed, and to a State title XX agency before a contract is entered into. Additionally, information must be furnished to the Secretary or the State agency at intervals between recertification or contract renewals upon written request. Failure to supply requested information may result in the refusal by the Secretary to recertify or renew a contract or agreement.

4. *Denial of participation.*—If a provider discloses that an owner, officer, director, agent, or managing employee has been convicted of a crime related to his involvement in these programs, the statute authorizes the Secretary to deny (or refuse to renew) a Medicare agreement and authorizes the State agency to deny (or refuse to renew) a contract or agreement under Medicaid or the services program.

5. *Termination of participation.*—The statute authorizes the Secretary to terminate a Medicare agreement if the provider did not fully and accurately disclose the required information at the time the agreement was approved. The statute also authorizes the State agency to terminate a contract, agreement, or approval to participate in Medicaid or the services program under the same circumstances.

C. *Federal access to records of medicaid providers.*—Section 9 of P.L. 95–142 provides that persons or institutions providing services under Medicaid are to furnish information to the Secretary to the extent they are already required to furnish it to the State Medicaid agencies under section 1902(a)(27) of the Social Security Act. Providers are also required to provide this information directly to the State Medicaid fraud control unit, if such a unit has been established by the State and approved by the Secretary in accordance with 42 CFR 450.310. The regulation also includes a clarification of the language regarding what information a Medicaid provider is required to disclose.

D. *Disclosure of the hiring of certain former employees of fiscal intermediaries.*—Section 15 of P.L. 95–142, in order to preserve the integrity of the relationship between intermediary and provider, and the integrity of the auditing process, requires any Medicare provider to notify the Secretary promptly of its employment of an individual who at any time during the preceding year was employed in a managerial, accounting, auditing or similar capacity (as defined in the regulation) by a fiscal intermediary or carrier who served that provider.

We have reorganized the location of the Medicare regulations from where they appeared in the Proposed Rule of August 4, 1978. Since the purpose of P.L. 95–142 was to strengthen the Government's antifraud and abuse efforts, the appropriate implementing

regulations are located in new Part 420 which will eventually contain all Program Integrity-related regulations under Medicare.

Regulations were published in the Federal Register as a Proposed Rule on August 4, 1978, and the public was invited to comment. We received 26 comments on the Proposed Rules. Although many of the comments which were received expressed dissatisfaction with the provisions of the statute, a number of them questioned the technical requirements for implementation contained in the proposed regulations. All of the comments have been reviewed and evaluated and, where appropriate, incorporated into the final rule.

Discussion of Major Comments

The most significant comments and changes to the regulations are described below:

Section 3—Disclosure of Ownership and Related Information

1. *Definitions of terms.*—A number of commenters questioned several of the definitions contained in the proposed regulation.

One commenter requested a definition of the term "control interest." This term is defined in Section 1124(a)(3) of the Social Security Act as part of the definition of the term "person with an ownership or control interest." Specifically, "control interest" is defined in that section in the following clauses: "(B) is an officer or director of a disclosing entity that is organized as a corporation; or (C) is a partner in a disclosing entity that is organized as a partnership."

"Group of Practitioners"—A commenter took exception to our proposed definition in that it placed a disclosure responsibility on groups of practitioners organized as partnerships or corporations while excusing from disclosure requirements those less formally affiliated practitioners operating at a common location. He suggested that it was not the intent of the statute to differentiate, for reporting purposes, those practitioners who had formed less formal group organizations. We have reviewed this carefully and have concluded that groups of practitioners organized as partnerships or corporations should not be included in the disclosing requirement. Because they do not enter into formal agreements with the Secretary, and are not certified for participation in these programs, they do not seem to be an "entity" within the terms of the statute.

"Indirect Ownership Interest"—Several commenters asked that we include the formula for determining "indirect ownership interest" (420.201 and 455.101) as well as an example of such ownership interest. We accept this suggestion and have provided the formula and an example in §§ 420.202 and 455.102.

"Person with an ownership or control interest"—One commenter suggested that the regulation include the formula for determining ownership interest of 5 percent or more in any mortgage, deed of trust, etc. (clause iii of the definition) as well as an example of such ownership interest. We accept this suggestion and have provided the formula and an example in §§ 420.202 and 455.102.

"Significant Business Transaction"—Several commenters suggested that the minimum of $25,000 or 5 percent be increased to $100,000 or 10 percent since the lower figure would require the reporting of too many transactions. As discussed in the NPRM, the figure of $25,000 was selected in order to conform to the $25,000 figure specified in the statute for reporting of transactions with subcontractors. In recognition that many small providers would be engaged in transactions totalling less than $25,000, but which would still represent a substantial portion of their overall business, we included the 5 percent alternative in order to assure the reporting of these transactions by smaller providers. We believe that the use of the proposed standards, $25,000 or 5 percent, would effectively reduce the opportunity for abuse. It should be noted that the law does not require the submission of information on "significant business transactions" on a routine basis. Rather, it is our intent to request such information only if the facts show it to be necessary.

"Subcontractor"—Several commenters stated that the definition was too broad and ambiguous. Our intent was to provide a broad definition of this term. A more narrow definition would exclude too many individuals and organizations from the disclosure requirements intended by the Congress. For the sake of clarity, however, we are revising 420.202 and 455.101 to separately define the term as it applies to fiscal intermediaries and fiscal agents as distinguished from health care providers. For fiscal intermediaries and fiscal agents, subcontractor has been defined as "any organization which has entered into a contract, agreement, purchase order, or lease (including leases of real property) with an intermediary (including a Blue Cross plan) or carrier to obtain space, supplies, equipment or services under the Medicare or Medicaid agreement."

2. *Information to be disclosed.*—A commenter suggested that the requirements for reporting the names of persons who are related to each other (420.206(a)(1) and 455.104(b)(2)) be expanded to include siblings. We accept this suggestion and have revised the regulation accordingly.

Proposed regulations 405.603–3(a)(2) (now 420.206(a)(2)) and 455.104(b)(3) require the name of any other disclosing entity in which any person with an ownership or control interest in the disclosing entity also has an ownership or control interest. A commenter asked whether this means that a disclosing entity which is participating in one program would be required to furnish the name of another disclosing entity which participates only in another program where both entities are owned or controlled by the same person. The answer is clearly, yes. The statute defines a disclosing entity as including those entities which furnish services covered under titles V, XVIII, XIX, and XX. For example, if a disclosing entity participating only in the Medicaid program has knowledge that one of its owners also has an ownership interest in a disclosing entity that participates only in the Medicare program, the name of the entity participating in Medicare must also be reported.

3. *Time and manner of disclosure.*—One commenter suggested that the term "survey agency" as used in 420.206(b)(1) and 455.104(c)(1) may not be commonly used or understood in the health care field. The term "survey agency" as used, for example, in 442.12 has been in wide use by both Medicare and Medicaid since the 1972 amendments to the Social Security Act which required the use of common standards for surveying providers. All certification agreements are between the provider and the State survey agency. In order to further assure a common understanding of this term, we have inserted the word "State" before survey agency.

A Medicaid State agency has commented that it was not sure whether it must obtain new agreements with providers under which the providers agree to furnish information on business transactions. Since the statute mandates that the State plans require a provider to furnish information on business transactions, State plans will be amended to require that all new provider agreements contain this agreement with the provider. This agreement by the provider will be

inserted in all existing agreements at the time they are scheduled for renewal.

A commenter noted that in 455.104(c)(1) we failed to provide for referral of disclosure information by the survey agency to the State agency. We have revised that part of the regulation to correct this oversight.

4. *Time limit for business transaction information.*—Many commenters protested that the time limits of 35 days after the date of request allowed providers for the submission of business transaction information (405.614(a)(6) and 455.105(b)) is insufficient. We recognize that there may be instances where it will take the provider longer than 35 days to collect, compile, and submit the required information. It is not our intention to be unreasonable in such cases. It should, therefore, be noted that the Secretary's termination authority for noncompliance within this prescribed time period is discretionary, not mandatory. The Secretary will consider any possible extenuating circumstances in a particular case and may allow more time for the submission of information before terminating a provider agreement or withholding Federal financial participation. It should, however, be emphasized that such extensions for compliance will be the exception rather than the rule and that the provider bears the burden of persuading the Secretary of the validity of the reason for noncompliance.

5. *Ownership/control reporting form.*—A number of commenters have proposed that HCFA develop a standard form to be used for the collection of ownership/control disclosure information. Recognizing the desirability of having such a form available, HCFA has been developing a form to be used for the collection of ownership and control data for both Medicare and Medicaid as well as the Maternal and Child Health and services programs during surveys or at the time provider agreements are signed. These forms should be available for distribution at the time of the publication of this regulation or very soon thereafter.

6. *Chain reporting.*—As noted in the discussion above, all providers, whether or not chain affiliated, are required to furnish the ownership/control information mandated by the statute. While some commenters have suggested that disclosure for the entire chain could be made from the home office, we do not agree that this would satisfy the requirements of the law. Since there is a wide variety of management, control, and ownership arrangements in force and applicable to individual providers within a chain, we believe that only by receiving the ownership/control information from each disclosing entity (individual provider) can we be assured of adequate data. In developing and evaluating the system for data collection and compilation, HCFA will place particular emphasis on assuring that there are no unnecessary duplicative reporting requirements imposed on chain providers.

7. *Reporting responsibility.*—One comment received from an intermediary association noted that since the majority of its affiliates (fiscal intermediaries) were organized as not-for-profit corporations, it believed that they would not have to comply with the ownership disclosure requirements. This is an erroneous interpretation of the law. The law does not distinguish between not-for-profit and for-profit organizations in that provision which requires the disclosure of ownership or control interest by disclosing entities (which includes agencies or organizations acting as fiscal intermediaries or agents). The same commenter further raised the question of the need for ownership disclosure for intermediaries which are organized as mutual insurance companies owned by the policyholders. Even though the entity may be organized as a mutually owned insurance company, the law still requires that entity to identify any person with a 5 percent or more ownership or control interest in the entity. In addition, a mutually owned insurance company must furnish full and complete information as to the identity of a person who is an officer or director of the entity, if a corporation, or in any subcontractor in which the disclosing entity corporation has a 5 percent or more ownership interest.

A comment from a State agency questioned the appropriateness of considering all entities under Medicaid (other than individual practitioners or groups of practitioners) as disclosing entities for disclosure requirement purposes. We must point out that the proposed regulation conforms to the language of the statute. The law is clear in that it requires such disclosure from any entity that furnishes, or arranges for the furnishing of items or services with respect to which payment may be claimed by the entity under any plan established under a State plan approved under title XIX.

It was suggested by one commenter that since the Securities Exchange Commission (SEC) has disclosure requirements for publicly held companies, we should recognize the procedures established by the SEC for obtaining ownership data in order to avoid duplication. In developing our system of data collection and compilation, we have been coordinating with the SEC in order to avoid the possibility of placing unnecessarily duplicative reporting requirements on disclosing entities.

8. *Efforts to obtain information.*—Several commenters have asked for more explanation and detail on what could be considered sufficient effort for disclosing entities to obtain information required to be disclosed. Specifically, the questions were asked as they relate to (1) the requirement of reporting the name of any other disclosing entity in which any person with an ownership or control interest in the disclosing entity also has an ownership or control interest, to the extent that the information can be obtained by requesting it in writing from the person, and (2) the requirement to supply full and complete information as to the ownership of a subcontractor with whom the disclosing provider has had, during the previous 12 months, business transactions amounting to more than $25,000.

As a minimum, we would recommend that an entity would make at least two written requests for the required information and, if necessary, a third request by registered mail if the first two requests elicited an unacceptable or no response. The regulations require the disclosing entity making such written requests to keep on record and to be able to furnish to the Secretary or State agency, copies of all requests as well as any responses received. The regulations also require the disclosing entity making the written requests to notify the Secretary or State agency when the requests have failed to obtain the information requested.

In any case where the disclosing entity has been unable to furnish the required information, the degree of effort put forth by the entity to obtain the information will be closely reviewed by the Secretary or the State agency.

9. *Appeals.*—A commenter suggested that since terminations or nonrenewals of provider agreements are subject to administrative hearings, the termination or nonrenewal due to noncompliance with the disclosure requirements should be delayed until the hearing has been completed. The appeals procedures, §§ 405.1501–405.1595, which have been in operation since 1968, provide only for hearings subsequent to the action being appealed. We think this is both constitutionally valid and appropriate and, therefore, do not accept the suggestion for a pretermination hearing in this situation.

10. *State agency authority and responsibility.*—In response to a question by a commenter, we wish to emphasize that nothing in these rules is intended to slow the process by which the State agency certifies and enters into agreements with providers. The State agency is encouraged to carry out without delay its responsibilities under the law and regulations without waiting until DHEW acknowledges the receipt of or approval of the ownership information.

Section 8—Disclosure by Institutions, Organizations, and Agencies of Owners and Certain Other Individuals Who Have Been Convicted of Certain Offenses

1. *Purpose and use of the statute.*—As a result of the concerns expressed by a number of commenters, we wish to state clearly that in implementing this provision of the law, it is not mandatory that the Secretary or State agencies deny approval or renewal of an agreement for every provider that has in any of the statutorily enumerated capacities (owner, officer, director, agent, or managing employee) a person who has been convicted of a crime related to any of the programs under titles XVIII, XIX, or XX. Rather, the purpose of the law and the role of the Secretary and State agencies is to enable them to deny program participation to a provider when it is apparent that participation in any of the programs by that provider will likely result in fraud and/or abuse of the programs. The statute is intended as a deterrent and will be used to protect the programs, not to mete out further punishment to persons already punished by the courts.

2. *Pre-employment approval.*—A commenter asks that a procedure be developed whereby the provider, prior to entering into an agency or employee relationship with a previously convicted person, could expeditiously determine from the Secretary or State agency the effect such a relationship would have on its provider status. It would be neither possible nor practical for this decision to be made prior to the actual employment of such a previously convicted person. To attempt to make such a pre-employment decision would subject the Secretary or State agency to charges of interference with that person's right to seek and obtain employment. It will, however, be the policy of the Department to make a prompt decision when it learns of the employment of a previously convicted person by a provider.

3. *Standards for making determinations.*—It was suggested by one commenter that the regulations set forth the specific standards and guidelines to be used in determining whether a provider agreement will be approved or renewed.

We cannot accept this suggestion since it is not possible to provide such a check list. Each case must be considered and weighed on its own facts and merits. As stated in the preamble to the proposed regulations, in reviewing the facts and circumstances of each case, consideration will be given to the nature and severity of the crime; the extent to which it adversely affected beneficiaries and the programs involved; and, whether reasonable assurance has been given that the person will not commit any further criminal offenses against the program.

4. *Notice of reversal of conviction.*—A commenter has suggested that the regulations should require notification from the provider of the reversal on appeal of the conviction of any owner, officer, director, agent, or managing employee.

We do not believe such a regulatory requirement is necessary. If such a reversal occurs prior to the time that reporting of a conviction is due from the provider, it would not be necessary to report such a reversed conviction. If, however, a reversal occurs subsequent to the notification by the provider of the conviction, it would likely be reported to the Secretary or State agency despite the absence of a regulation since it would be in the provider's best interest to report a reversal.

5. *Persons to be reported.*—A commenter suggests the use of the SEC standard for determining "controlling persons" and that this be our criterion for requiring reporting of convictions under this section of the law.

Section 1126(a) of the Social Security Act identifies those persons who must be identified if convicted. We cannot, therefore, accept this suggestion since it was clearly the intent of the drafters of this provision to require that any person in any type of managerial capacity, not only "controlling persons", be identified.

6. *Definition of "agent".*—A commenter has stated the definition of the term "agent" (420.201 and 455.101) is too broad in that it encompasses virtually any person who has the authority to obligate or act on behalf of the provider. As discussed in Comment 3 above under Disclosure of Ownership and Related Information (Section 3) this is precisely what must be reported. The intent here is to have knowledge of not only those persons in top provider management, but also those persons who, although on a lower management level, are in positions where there is a potential to engage in fraud and/or abuse. Since any person who can obligate or act on behalf of the provider is in such a position, we need the identity of any such previously convicted person in order to protect the integrity of the programs.

7. *Definition of "managing employee".*—Two commenters have written that the definition of the term "managing employee" (420.201 and 455.101) is too broad. The definition used in the proposed regulation is identical to the definition contained in the statute. We have not, therefore, acted upon this suggestion.

8. *Date of conviction.*—Two commenters objected to the decision by the Secretary to require the reporting of convictions which occurred prior to October 25, 1977, the date of enactment of this section of the law. The commenters reasoned that for those earlier periods other sanctions were available and that the person may not have been associated with the instant provider during that earlier period. Although we do not dispute the accuracy of these statements, we believe that the information we want is necessary and that our proposal is justified. We must reiterate that the reporting by a provider of the identity of a previously convicted person will not result in an automatic denial of or refusal to renew an agreement. Considering that the purpose of P.L. 95-142 was to strengthen the capability of the Government to prevent and detect fraud and abuse of the programs, we would be underutilizing this provision of the law if we suggested that we were only interested in criminal activity and convictions occurring on or after October 25, 1977. Knowledge of earlier convictions will not result in any type of retroactive denial action by the Secretary or State agency. We will use this information only in connection with current or future requests for approval or renewal of a provider agreement.

9. *Availability of medical services in the community.*—It was suggested by one commenter that in determining whether to renew an agreement, the Secretary or State agency should consider as a factor the availability or shortage in the community of the medical services offered by the subject provider. In essence, this suggests that a provider should be allowed to continue participation in the programs where there is a medical shortage in the community notwithstanding the continued involvement with the facility

of a person convicted of a program-related crime who has not satisfied the Secretary or State agency that such future crimes are not likely.

Unlike another provision of P.L. 95–142 (Section 7) which explicitly allows for consideration of an imputes much weight to the medical services availability factor in determining whether a convicted practitioner should be suspended from program participation, there is nothing in this section of the law concerning any consideration of this factor. As previously stated, the Secretary or State agency may consider any factor in each case individually.

10. *Failure to disclose.*—Commenters asked whether an unintentional failure to disclose a program-related conviction of an employee (because the employee withheld such information from the provider) would result in a termination action against the provider. We view the failure by a provider to report such information fully and accurately as a serious matter warranting termination of the provider agreement. However, the provider will be allowed to present any mitigating factors which might justify the nondisclosure. For example, the provider might show that the employment application completed by the employee included a clearly worded question regarding any prior convictions for crimes against the programs; the employee gave a written negative response; and the employer had no reason to doubt the truth of such response. Clearly, however, the burden is on the provider to show why it should not be terminated in accordance with the law for such failure to disclose.

At any time during the agreement period, it is the responsibility of the provider to promptly notify the Secretary or State agency upon learning of a conviction which occurred prior to the agreement period and which was not previously reported.

Section 9—Federal Access to Records

1. Two commenters objected to the Secretary's access to the records of Medicaid providers (431.107(b)(2)), claiming that such access would destroy the traditional confidentiality between the physician and the patient.

This provision was included in the law specifically to allow the Secretary access to the records of persons or institutions providing services under Medicaid in the same manner that such access was provided to the State agency administering the State Medicaid plan. (See H. Rept. 95–393, Part 1, p. 65; S. Rept. 95–453, p. 29.) Prior to P. L. 95–142, the State plans under Medicaid were required to provide for agreements with every person or institution providing services so that such persons or entities would keep complete records of services provided under the program and furnish the State agency, upon request, with information regarding any payments claimed under the program. Similar access to the Secretary was not expressly authorized. The Congress concluded that this omission hampered the Federal efforts to obtain information necessary to detect and examine potential instances of fraudulent or abusive activities and, therefore, legislatively provided the Secretary with the same access to records as provided to the State Medicaid agencies.

Federal examination of any records of Medicaid recipients will be done judiciously and for the sole purpose of determining that payments made under Medicaid are proper. The patients' right of privacy will be protected under the rules and regulations implementing the Privacy Act (5 U.S.C. 522a) and the laws the various States have concerning the patients' right to privacy.

2. *Access to State Medicaid fraud control units.*—One commenter objected to the access to records by State Medicaid fraud control units proposed in 431.107(b)(2) noting that such units already have an indirect access to records through the single State agencies.

As we stated in the preamble to the proposed regulations, direct access by the fraud control units will negate the administrative delay which would be caused by requiring the units to request the Medicaid agency to obtain the records so that they may be then turned over to the fraud control unit. The final regulations for establishing State Medicaid fraud control units (42 FR 32078–32082) noted that consideration was then being given to revising 431.107 to allow record access by the units. The revision is now being accomplished in these regulations.

Section 15—Disclosure by Providers of the Hiring of Certain Former Employees of Fiscal Intermediaries

1. *Purpose of the statute.*—Several commenters have expressed opposition to the proposed regulation requiring a provider to notify the Secretary of its employment of certain former employees of its intermediary.

The regulation in this instance is not interpretive but merely conforms to the law which clearly states that a Medicare provider must agree to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity by its Medicare intermediary or carrier.

Information obtained under this notification requirement will be used by the Department to discourage such practices, especially when such information suggests possible conflict of interest situations. (See H. Rept. 95–393, Part 1, p. 70; S. Rept. 95–453, p. 33.)

2. *Chain organization employee.*—A commenter asked whether reporting is necessary when a former intermediary or carrier employee is employed by a chain organization and is not on the staff of an individual reporting entity but rather on the staff of the chain organization serving many reporting entities.

The language of the proposed regulation (405.607(c)) requires reporting by a provider ". . . If it employs or obtains the services of . . ." In including the term "obtains the services of" it was intended that such a chain home office employee be reported by the individual disclosing entity serviced by the intermediary or carrier by whom he was formerly employed. Even though the employee is not directly employed by any individual facility in the chain, his employment by the chain home office presumes that his services are, in fact, rendered to all of the facilities in the chain.

42 CFR Chapter IV is amended as set forth below:

1. Section 405.603 is revised to read as follows:

§ 405.603 Decision by the Secretary to deny an agreement.

(a) *Bases for denial.*—The Secretary may refuse to enter into or renew an agreement for any of the following reasons:

(1) Bankruptcy or insolvency of the provider;

(2) Principals of the provider have been convicted of fraud (see § 420.204 of this chapter); or

(3) The provider has failed to disclose ownership and control interests in accordance with § 420.206 of this chapter.

(b) *Bankruptcy or insolvency.*—(1) Prior to the Secretary's acceptance of a provider agreement, the provider must furnish a statement in writing indicating whether it has been adjudged insolvent or bankrupt in any State or Federal court or there is pending a court proceeding to make a judgment of this matter.

(2) The Secretary will not enter into an agreement with a provider that has been adjudged insolvent or bankrupt under appropriate State or Federal law,

or against which there is pending a court proceeding to make a judgment concerning this matter, on the grounds that the provider is unable to give satisfactory assurances of compliance with the requirements of title XVIII of the Act.

(3) If a provider who is participating and receiving payments under Medicare is subsequently adjudged insolvent or bankrupt by a court of competent jurisdiction, the Secretary will not terminate the provider's participation in the program because of that financial condition.

2. Section 405.607 is amended by revising the introductory language and adding a new paragraph (c) to read as follows:

§ 405.607 Essentials of agreements with providers of services.

The provider must agree:

* * * * *

(c) to comply with the requirements of § 420.203 of this chapter when it hires certain former employees of intermediaries.

3. Section 405.614 is amended by adding new paragraphs (a)(6), (a)(7), and (a)(8), to read as follows:

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement if he determines that the provider of services:

* * * * *

(6) Failed to furnish information on business transactions as required in § 420.205 of this chapter.

(7) Failed at the time the agreement was entered into or renewed to disclose information on convicted individuals as required in § 420.204 of this chapter.

(8) Failed to furnish ownership information as required in § 420.206 of this chapter.

4. Section 405.1121 is amended by revising paragraph (a) to read as follows:

§ 405.1121 Conditions of participation—governing body and management.

* * * * *

(a) *Standard: Disclosure of ownership.*—The facility complies with the disclosure requirements of § 420.206 of this chapter.

5. Part 420 is amended by adding a new Subpart C to read as follows:

PART 420—PROGRAM INTEGRITY

* * * * *

Subpart C—Disclosure of Information

Sec.

420.200 Purpose.
420.201 Definitions.
420.202 Determination of ownership or control percentages.
420.203 Disclosure of hiring of intermediary's former employees.
420.204 Principals convicted of a program related crime.
420.205 Disclosure by providers of business transaction information.
420.206 Disclosure of identities of persons having ownership, financial, or control interest.

Authority: Secs. 1102, 1124, 1126, 1861(j)(1), 1866(a), and 1866(b)(2), of the Social Security Act (42 U.S.C. 1302, 1320a–3, 1320a–5, 1395x(j)(11), 1395cc(a), 1395cc(b)(2)).

Subpart C—Disclosure of Information

§ 420.200 Purpose.

This subpart implements sections 1124, 1126, 1861, and 1866 of the Social Security Act. It sets forth requirements for providers, intermediaries, and carriers to disclose ownership and control information. It also sets forth requirements for disclosure of information on a provider's owners and other persons convicted of criminal offenses against Medicare, Medicaid, or the title XX services program.

§ 420.201 Definitions.

As used in this subpart unless the context indicates otherwise: "Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider.

"Disclosing entity" means:

(1) A provider of services, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in section 1301(a) of the Public Health Services Act); and

(2) A carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of Part A or Part B of Medicare.

"Other disclosing entity" means any other Medicare disclosing entity and any entity that does not participate in Medicare, but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XIX, or XX of the Act. This includes:

(1) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Social Security Act or under an approved State Medicaid plan;

(2) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services for which payment may be claimed by the entity under an approved State plan and services program under title XX of the Act; or

(3) A Medicaid fiscal agent.

"Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

"Indirect ownership interest" means any ownership interest in an entity that has an ownership interest in the disclosing entity. The term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.

"Managing employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of the institution, organization, or agency.

"Ownership interest" means the possession of equity in the capital, the stock, or the profits of the disclosing entity.

"Person with an ownership or control interest" means a person or corporation that:

(1) Has an ownership interest totalling 5 percent or more in a disclosing entity;

(2) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(3) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(4) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(5) Is an officer or director of a disclosing entity that is organized as a corporation; or

(6) Is a partner in a disclosing entity that is organized as a partnership.

"Significant business transaction" means any business transaction or series of transactions during any one fiscal year, the total of which exceeds the lesser of $25,000 and 5 percent of the total operating expenses of the provider.

"Subcontractor" means:

(1) An Individual, agency, or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients, or

(2) An individual, agency, or organization with which an intermediary or carrier has entered into a contract, agreement, purchase order or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the Medicare agreement.

"Supplier" means an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under Medicare (e.g. a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).

"Wholly owned supplier" means a supplier whose total ownership interest is held by a provider or by a person, persons, or other entity with an ownership or control interest in a provider.

§ 420.202 Determination of ownership or control percentages.

(a) *Indirect ownership interest.*—The amount of indirect ownership interest is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 percent of the stock in a corporation that owns 80 percent of the disclosing entity, A's interest equates to an 8 percent indirect ownership interest in the disclosing entity and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns 5 percent of the stock of the disclosing entity, B's interest equates to a 4 percent indirect ownership interest in the disclosing entity and need not be reported.

(b) *Person with an ownership or control interest.*—In order to determine the percentage of ownership interest in any mortgage, deed of trust, note, or other obligation, the percentage of interest owned in obligation is multiplied by the percentage of the disclosing entity's assets used to secure the obligation. For example, if A owns 10 percent of a note secured by 60 percent of the provider's assets, A's interest in the provider's assets equates to 6 percent and must be reported. Conversely, if B owns 40 percent of a note secured by 10 percent of the provider's assets, B's interest in the provider's assets equates to 4 percent and need not be reported.

§ 420.203 Disclosure of hiring of intermediary's former employees.

A provider must notify the Secretary promptly if it, or its home office (in the case of a chain organization), employs or obtains the services of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing or similar capacity by an agency or organization which currently serves, or at any time during the preceding year, served as a Medicare fiscal intermediary or carrier for the provider. "Similar capacity" means the performance of essentially the same work functions as those of a manager, accountant, or auditor even though the individual is not so designated by title.

§ 420.204 Principals convicted of a program related crime.

(a) *Information required.*—Prior to the Secretary's acceptance of a provider agreement, or at any time upon written request by the Secretary, the provider must furnish the Secretary with the identity of any person who has an ownership or controlling interest in the provider, or who is an agent or managing employee of the provider, and has been convicted of a criminal offense relating to involvement in Medicare, Medicaid, or the title XX services program since the inception of those programs.

(b) *Refusal to enter into or renew agreement.*—The Secretary may refuse to enter into or renew an agreement with a provider of services if any person who has an ownership or controlling interest in the provider, or who is an agent or managing employee, has been convicted of a criminal offense related to the involvement of that person in Medicare, Medicaid, or the title XX services program. In making this decision, the Secretary will consider the facts and circumstances of the specific case, including the nature and severity of the crime and the extent to which it adversely affected beneficiaries and the programs involved. The Secretary will also consider whether he has been given reasonable assurance that the person will not commit any further criminal offense against the programs.

(c) *Notification of Inspector General.*—The Secretary will promptly notify the Inspector General of the Department of receipt of any application or request for participation, certification, or recertification that identifies any person described in paragraph (a) of this section and of the action taken on that application or request.

§ 420.205 Disclosure by providers of business transaction information.

A provider must submit to the Secretary, within 35 days after the date of a written request, full and complete information on:

(a) The ownership of a subcontractor with whom the provider has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000; and

(b) Any significant business transactions between the provider and any wholly owned supplier or between the provider and any subcontractor, during the 5 year period ending on the date of the request.

§ 420.206 Disclosure of persons having ownership, financial, or control interest.

(a) *Information that must be disclosed.*—A disclosing entity must submit the following information in the manner specified in paragraph (b) of this section.

(1) The name and address of each person with an ownership or control interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totalling 5 percent or more;

(2) Whether any of the persons named, in compliance with paragraph (a)(1) of this section, is related to another as spouse, parent, child, or sibling; and

(3) The name of any other disclosing entity in which any person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent the entity can obtain the information by requesting it in writing from the person. The disclosing entity must:

(i) Keep copies of all these requests and the responses to them;

(ii) Make them available to the Secretary or the Medicaid agency upon request; and

(iii) Advise the Secretary when there is no response to a request.

(b) *Time and manner of disclosure.*—(1) Any disclosing entity that is subject to periodic survey and certification of its compliance with Medicare standards must supply the information specified in paragraph (a) of this section to the State survey agency at the time it is surveyed. The survey agency will promptly furnish the information to the Secretary.

(2) Any disclosing entity that is not subject to periodic survey and certification must supply the information specified in paragraph (a) of this section to the Secretary before entering into a contract or agreement to participate in Medicare.

(3) Updated information must be furnished to the Secretary at intervals between recertifications or contract renewals, within 35 days of a written request.

(c) *Consequences of failure to disclose.*—(1) The Secretary will not approve an agreement or contract with, or make a determination of eligibility

for, any disclosing entity that fails to comply with paragraph (b) of this section.

(2) The Secretary will terminate any existing agreement or contract with, or withdraw a determination of eligibility for, any disclosing entity that fails to comply with paragraph (b) of this section.

(d) *Public disclosure.*—Information furnished to the Secretary under the provisions of this section shall be subject to public disclosure as specified in 20 CFR Part 422.

6. Section 431.107 is revised to read as follows:

§ 431.107 Required provider agreement.

(a) *Basis and purpose.*—This section sets forth State plan requirements, based on sections 1902(a)(4) and 1902(a)(27) of the Act, that relate to the keeping of records and the furnishing of information by all providers of services (including individual practitioners and groups of practitioners).

(b) *Agreements.*—A State plan must provide for an agreement between the Medicaid agency and each provider furnishing services under the plan in which the provider agrees to:

(1) Keep any records necessary to disclose the extent of services the provider furnishes to recipients;

(2) On requests, furnish to the Medicaid agency, the Secretary, or the State Medicaid fraud control unit (if such a unit has been approved by the Secretary under § 455.300 of this chapter), any information maintained under paragraph (b)(1) of this section and any information regarding payments claimed by the provider for furnishing services under the plan; and

(3) Comply with the disclosure requirements specified in Part 455, Subpart B of this chapter.

7. Section 431.115 is amended by revising the title and paragraph (e)(4) to read as follows:

§ 431.115 Disclosure of survey information and provider or contractor evaluation.

* * * * *

(e) *Documents subject to disclosure.*—Documents subject to disclosure include—

* * * * *

(4) Ownership and contract information as specified in § 455.104 of this subchapter.

* * * * *

8. Part 455, Subpart B, is revised to read as follows:

PART 455—PROGRAM INTEGRITY

* * * * *

Subpart B—Disclosure of Information by Providers and Fiscal Agents

Secs.

455.100 Purpose.
455.101 Definitions.
455.102 Determination of ownership or control percentages.
455.103 State plan requirement.
455.104 Disclosure by providers and fiscal agents: Information on ownership and control.
455.105 Disclosure by providers: Information related to business transactions.
455.106 Disclosure by providers: Information on persons convicted of crimes.

Authority: Secs. 1102, 1124, 1126, 1902(a)(38), 1903(i)(2), and 1903(n) of the Social Security Act (42 U.S.C. 1302, 1320a–3, 1320a–5, 1396a(a)(38), 1396b(i)(2), and 1396b(n)).

§ 455.100 Purpose.

This subpart implements sections 1124, 1126, 1902(a)(38), 1903(i)(2), and 1903(n) of the Social Security Act. It sets forth State plan requirements regarding:

(a) Disclosure by providers and fiscal agents of ownership and control information; and

(b) Disclosure of information on a provider's owners and other persons convicted of criminal offenses against Medicare, Medicaid, or the title XX services program.

The subpart also specifies conditions under which the Administrator will deny Federal financial participation for services furnished by providers or fiscal agents who fail to comply with the disclosure requirements.

§ 455.101 Definitions.

"Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider.

"Convicted" means that a judgment of conviction has been entered by a Federal, State, or local court, regardless of whether an appeal from that judgment is pending.

"Disclosing entity" means a Medicaid provider (other than an individual practitioner or group of practitioners), or a fiscal agent.

"Other disclosing entity" means any other Medicaid disclosing entity and any entity that does not participate in Medicaid, but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XVIII, or XX of the Act. This includes:

(1) Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare (title XVIII);

(2) Any Medicare intermediary or carrier; and

(3) Any entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program established under title V or title XX of the Act.

"Fiscal agent" means a contractor that processes or pays vendor claims on behalf of the Medicaid agency.

"Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

"Indirect ownership interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity. This term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.

"Managing employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization, or agency.

"Ownership interest" means the possession of equity in the capital, the stock, or the profits of the disclosing entity.

"Person with an ownership or control interest" means a person or corporation that:

(1) Has an ownership interest totalling 5 percent or more in a disclosing entity;

(2) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(3) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(4) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(5) Is an officer or director of a disclosing entity that is organized as a corporation; or

(6) Is a partner in a disclosing entity that is organized as a partnership.

"Significant business transaction" means any business transaction or

series of transactions that, during any one fiscal year, exceed the lesser of $25,000 and 5 percent of a provider's total operating expenses.

"Subcontractor" means:

(1) An individual, agency, or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients; or

(2) An individual, agency, or organization with which a fiscal agent has entered into a contract, agreement, purchase order, or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the Medicaid agreeement.

"Supplier" means an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under Medicaid (e.g., a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).

"Wholly owned supplier" means a supplier whose total ownership interest is held by a provider or by a person, persons, or other entity with an ownership or control interest in a provider.

§ 455.102 Determination of ownership or control percentages.

(a) *Indirect ownership interest.*—The amount of indirect ownership interest is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 percent of the stock in a corporation which owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership interest in the disclosing entity and must be reported. Conversely, if B owns 80 percent of the stock of a corporation which owns 5 percent of the stock of the disclosing entity, B's interest equates to a 4 percent indirect ownership interest in the disclosing entity and need not be reported.

(b) *Person with an ownership or control interest.*—In order to determine percentage of ownership, mortgage, deed of trust, note, or other obligation, the percentage of interest owned in the obligation is multiplied by the percentage of the disclosing entity's assets used to secure the obligation. For example, if A owns 10 percent of a note secured by 60 percent of the provider's assets, A's interest in the provider's assets equates to 6 percent and must be reported. Conversely, if B owns 40 percent of a note secured by 10 percent of the provider's assets, B's interest in the provider's assets equates to 4 percent and need not be reported.

§ 455.103 State plan requirement.

A State plan must provide that the requirements of §§ 455.104–455.106 are met.

§ 455.104 Disclosure by providers and fiscal agents: Information on ownership and control.

(a) *Information that must be disclosed.*—The Medicaid agency must require each disclosing entity to disclose the following information in accordance with paragraph (b) of this section:

(1) The name and address of each person with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has direct or indirect ownership of 5 percent or more;

(2) Whether any of the persons named, in compliance with paragraph (a)(1) of this section, is related to another as spouse, parent, child, or sibling; and

(3) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent that the disclosing entity can obtain this information by requesting it in writing from the person. The disclosing entity must:

(i) Keep copies of all these requests and the responses to them;

(ii) Make them available to the Secretary or the Medicaid agency upon request; and

(iii) Advise the Medicaid agency when there is no response to a request.

(b) *Time and manner of disclosure.*—(1) Any disclosing entity that is subject to periodic survey and certification of its compliance with Medicaid standards must supply the information specified in paragraph (a) of this section to the State survey agency at the time it is surveyed. The survey agency must promptly furnish the information to the Secretary and the Medicaid agency.

(2) Any disclosing entity that is not subject to periodic survey and certification and has not supplied the information specified in paragraph (a) of this section to the Secretary within the prior 12-month period, must submit the information to the Medicaid agency before entering into a contract or agreement to participate in the program. The Medicaid agency must promptly furnish the information to the Secretary.

(3) Updated information must be furnished to the Secretary or the State survey or Medicaid agency at intervals between recertification or contract renewals, within 35 days of a written request.

(c) *Provider agreements and fiscal agent contracts.*—A Medicaid agency shall not approve a provider agreement or a contract with a fiscal agent, and must terminate an existing agreement or contract, if the provider or fiscal agent fails to disclose ownership or control information as required by this section.

(d) *Denial of Federal financial participation (FFP).*—FFP is not available in payments made to a provider or fiscal agent that fails to disclose ownership or control information as required by this section.

§ 455.105 Disclosure by providers: Information related to business transactions.

(a) *Provider agreements.*—A Medicaid agency must enter into an agreement with each provider under which the provider agrees to furnish to it or to the Secretary on request, information related to business transactions in accordance with paragraph (b) of this section.

(b) *Information that must be submitted.*—A provider must submit, within 35 days of the date on a request by the Secretary or the Medicaid agency, full and complete information about:

(1) The ownership of any subcontractor with whom the provider has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request; and

(2) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.

(c) *Denial of Federal financial participation (FFP).*—(1) FFP is not available in expenditures for services furnished by providers who fail to comply with a request made by the Secretary or the Medicaid agency under paragraph (b) of this section or under section 420.205 of this chapter (Medicare requirements for disclosure).

(2) FFP will be denied in expenditures for services furnished during the period beginning on the day following the date the information was due to the Secretary or the Medicaid agency and ending on the day before the date on which the information was supplied.

§ 455.106 Disclosure by providers: Information on persons convicted of crimes.

(a) *Information that must be disclosed.*—Before the Medicaid agency enters into or renews a provider agreement, or at any time upon written

request by the Medicaid agency, the provider must disclose to the Medicaid agency the identity of any person who:

(1) Has ownership or control interest in the provider, or is an agent or managing employee of the provider; and

(2) Has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the title XX services program since the inception of those programs.

(b) *Notification to Inspector General.*—(1) The Medicaid agency must notify the Inspector General of the Department of any disclosures made under paragraph (a) of this section within 20 working days from the date it receives the information.

(2) The agency must also promptly notify the Inspector General of the Department of any action it takes on the provider's application for participation in the program.

(c) *Denial or termination of provider participation.*—(1) The Medicaid agency may refuse to enter into or renew an agreement with a provider if any person who has an ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established under Medicare, Medicaid or the title XX Services Program.

(2) The Medicaid agency may refuse to enter into or may terminate a provider agreement if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

(Sections 1102, 1124, 1126, 1861(j)(11), 1866(a), 1866(b)(2), 1902(a)(38), 1903(i)(2), and 1903(n) of the Social Security Act; 42 U.S.C. 1302, 1302a–3, 1320a–5, 1395x(j)(11), 1395cc(a), 1395cc(b)(2), 1396a(a)(38), 1396(i)(2), and 1396b(n).)

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Programs; 13.773, Medicare-Hospital Insurance; and 13.774, Medicare-Supplementary Medical Insurance.)

Dated: April 20, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary.

[FR Doc. 79-21825 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

45 CFR Part 228

Social Services Programs for Individuals and Families; Disclosure by Providers of Certain Ownership Interests and Other Information

AGENCY: Administration for Public Services (APS), Office of Human Development Services (HDS), Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: These regulations require private providers of medical or remedial care and health-related homemaker services under title XX of the Social Security Act to disclose the names of persons with an ownership or control interest. They also require both public and private institutions, organizations or agencies which provide any service under title XX to identify any owners or other specified individuals who have been convicted of a criminal offense in any program under Medicare, Medicaid or title XX. These regulations implement sections 3 and 8 of the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977 (Pub. L. 95–142, October 25, 1977), and this final rule reflects changes made as a result of the comment period on the proposed regulations which were published August 4, 1978 in the **Federal Register** (FR 34719).

EFFECTIVE DATE: These regulations are effective on July 17, 1979, except that States with a program year starting July 1, 1979 may have up to 90 days after this date to secure the disclosure statements if, when processing a contract, they reserve the right to take appropriate action on the basis of the information received or the provider's failure to provide the information.

FOR FURTHER INFORMATION, CONTACT: Mrs. Johnnie U. Brooks, Room 2225, MES Building, 330 C Street, SW., Washington, D.C. 20201, (202) 245–9415.

SUPPLEMENTARY INFORMATION:

Background

Elsewhere in this issue of the **Federal Register** there appear final rules implementing sections 3 and 8 of Pub. L. 95–142 for Medicare and Medicaid, and implementing section 3 for the maternal and child health and crippled children's services program. Both the proposed and final rules were developed cooperatively by the Office of Human Development Services, the Health Care Financing Administration, and the Public Health Service in the interests of attaining as much consistency as possible among the programs. The comments which were received as a result of the publication of the proposed rules on August 4, 1978 and actions which were taken in response to them are described in the preambles: problems common to all the programs and responses to them appear in the preamble to the rules for Medicare and Medicaid; problems and responses unique to title XX are discussed in the material following.

Comments and Responses

Comments were received from 11 respondents on the proposed rule for title XX. These included six State agencies, one county agency, three private non-profit agencies, and one HEW Regional Office. All the comments have been reviewed and evaluated and the following discussion presents the main points and our responses.

1. *Additional Computer Funding.* Respondents saw the reporting procedure required by these rules to be an additional administrative burden on the State agency, requiring additional expenditures. It was suggested that HEW obtain additonal funding for the needed computer work and that simple reporting forms be used. In response, we must state that there is no possiblity of securing extra earmarked funds for computer work. Moreover, HCFA will do the compilation for the Department (see the next point, Collection of Data by HCFA). We are developing reporting forms and will attempt to keep them as simple as possible.

2. *Collection of Data by HCFA.* Several respondents were perplexed by the statement in the preamble to the proposed HCFA regulation which implied that all information, including that on title XX providers, would be compiled and analyzed by HCFA.

The provider will supply the information to the State title XX agency on forms provided for that purpose. The State title XX agency will then furnish a copy to HCFA which will do the compilation on behalf of HEW. In order to facilitate this process, providers will be asked to submit two copies of the information to the title XX agency.

3. *Phase-in Period to Install the System.* States expressed concern about putting the reporting requirement into effect: they asked for "a reasonable amount of time for implementation and phase-in of the requirement." In our view, it is important to implement these regulations as quickly as possible, since the legislation was enacted in late 1977. Therefore, the regulations will become effective on the date of publication of

the final rule. This means that the required information is due at the time a contract is initiated or renewed following the effective date of the final rule. However, if the State agency has a large volume of contracts being initiated or renewed soon after the effective date of this regulation and it is not administratively feasible for it to obtain these disclosures before processing all these contracts, the State agency may obtain this information as soon as possible after processing a contract (but no later that October 15, 1979) provided that when processing a contract, the State agency reserves the right to take appropriate action on the basis of the information received or the provider's failure to provide this information. In order to alert private providers of what will be expected of them, we suggest that title XX agencies immediately notify those providers currently under contract of the content of these regulations and of the information that will be asked for: (1) all providers, public and private, must disclose information about persons with ownership or control who have been convicted of a crime in connection with a program under Medicaid, Medicare, or title XX of the Social Security Act; and (2) private providers of medical or remedial care or health-related homemaker services must also provide information about ownership or control interests. This notification of providers will enable them to have the necessary information ready at contract renewal time.

As a title XX agency develops new providers, it should inform them of the disclosure requirements in advance.

One State agency suggested that all providers, not just those for health-related services, should provide ownership information. However, the statutory requirement for disclosure about ownership applies only to providers furnishing health-related services. We do not believe there is a basis for extending this requirement to other providers.

4. *Subcontractors of Public Agencies.* A question was raised about whether the disclosure requirements apply to private subcontractors of public governmental agencies. The answer is yes because they are providers within the definition of the statute. However, to clarify this point, we have revised the definition of "private providers" in section 228.72(a)(10) to include private providers who are subcontractors for title XX services with public or private agencies.

5. *Health-Related Homemaker Services.* A number of commenters wrote of the difficulty of distinguishing between health-related homemaker services, for which disclosure is required, and those homemaker services which are not health-related, for which disclosure is not required. In response, we recognize that both kinds of homemaker services may be provided by the same agency. Therefore, we believe the simplest approach is to require disclosure of any agency that might provide health-related homemaker services. We cannot accept a suggestion that the definition of health-related homemaker services be made more limited or deleted since this would not carry out the terms of the statute.

6. *Regulations Not Applicable to All Service Providers.* One State agency pointed out that the proposed regulations only address providers of services subject to Subpart G (Purchase of Service) of Part 228 and do not cover either providers of service under § 228.47 (Payments to recipients for services), or providers under § 228.90 who may provide medical examinations under administrative support agreements when such examinations are necessary for the development of a services plan. In responding to this comment, we call attention to the fact that services provided under § 228.47 are provided by persons not under contract with the title XX agency. The agency has previously approved of the service for the recipient; the recipient makes payment directly to the provider and is later reimbursed by the agency. In our view, entities not covered by a contract are not covered by the statute. On the other hand, the providers who provide health-related services under administrative support agreements are under contract with the title XX agency and should be covered by the regulations. We are clarifying this point by revising § 228.90(b)(2) to provide that contracts with providers for medical examinations or other health-related services procured under an administrative support contract are subject to the disclosure provisions of §§ 228.72 and 228.73.

7. *Non-profit Provider Agencies.* Several non-profit agency respondents thought that a distinction should be made between proprietary and non-profit agencies in terminating title XX funded programs for failure to disclose information. They also believed that it would be appropriate for agencies like theirs to report only on Board members and their activities as Board members and to forgo the necessity of having to secure knowledge about the behavior of the Board members in other areas. It was further suggested that failure by a Board member to disclose the requested information should be seen as personal misconduct and result in removal of the offending director from the Board, without penalty to the agency itself. In response, we note that the statute does not distinguish between treatment of non-profit and proprietary providers. Moreover, it is not always possible to distinguish between a legitimate non-profit agency and one that is set up to manipulate funds and conceal fraud. Therefore, we cannot support any difference in disclosure of information or penalty as between profit and non-profit agencies and, since Board members meet the definition of persons with a controlling interest, they will be required to provide the required information or expose their agencies to possible termination of contract if they fail to provide the information.

8. *Disclosure of Criminal Conviction and Accumulation of Data.* A State agency questioned the use of information about former offenders who had been convicted of criminal action in connection with program activity under titles XVIII, XIX or XX of the Act. The proposed regulation called for transmittal to the Inspector General of an offender's name within 20 days of receipt of an application or request for participation bearing the name of such an offender. The State agency pointed out that the proposed regulations are silent on how the information will be used by the Inspector General; they give no standards for collection, storage and release of the data. The State agency suggested that feeding information into a central point without safeguards may have constitutional dimensions and recommended its deletion from the final regulation.

Our response is that the statute specifically requires that this information be provided to the Inspector General. The Inspector General is aware of the sensitivity of this information, and is, moreover, subject to the requirements of the Privacy Act.

9. *20-day Time Frame for Transmitting Information.* One State agency questioned the 20 day time limit for transmitting the information about persons convicted of criminal action. This agency receives "many applications or proposals, solicited and unsolicited which for various reasons may simply be filed and not considered by the agency for months, if ever." The agency would like the regulation changed to permit the 20 day time limit to start from the time the State agency actually begins to consider contracting with, or permitting, a provider to participate in a program. In response,

we would note that if a proposal is unsolicited, a provider is unlikely to provide information about a criminal connection unless requested. If the title XX agency wishes to use the provider, it will request the information. The 20 days will start from when the information is submitted. If a proposal is solicited, the agency must have some imminent action in mind and will have requested the information. To the best of our knowledge, the quantity of unsolicited proposals is not so voluminous as to constitute a burden to the State. We are not persuaded that the regulation should be changed.

10. *Report of Past Criminal Convictions by All Providers, Public and Private.* The proposed regulation required only *private* providers to disclose the names of owners or managers who had been convicted of criminal actions in programs under titles XVIII, XIX, and XX. This was in error because the statute requires "*any* hospital, nursing facility, etc." to make the disclosure. We have therefore corrected § 228.73(a) to delete the word "private" as a modifier to the various facilities required to report. By using the language of the statute, "any," the regulation now requires both public and private facilities or agencies under contract with title XX to make disclosure.

(Sections 1102, 1124 and 1126 of the Social Security Act (42 U.S.C. 1302, 1320a–3 and 1320a–5).)

(Catalog of Federal Domestic Assistance Program No. 13.642, Social Services for Low Income and Public Assistance Recipients.)

It has been determined that this document does not require preparation of a Regulatory Analysis under Executive Order 12044.

Dated: May 11, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

Approved: June 17, 1979.

Hale Champion,

Acting Secretary.

45 CFR 228 is revised as follows:

1. The Table of Contents for Subparts B and G is revised as set forth below:

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Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

Sec.
228.4 State plan requirements.
228.5 Appropriate State agency.
228.6 State financial participation.
228.7 Statewide operation.
228.8 Merit system.
228.9 Requirement to obtain certain information.

* * * * *

Subpart G—Purchase of Service

Sec.
228.70 Procurement standards.
228.71 Rates of payment.
228.72 Disclosure of information about ownership and business transactions.
228.73 Disclosure of information about individuals convicted of crimes.

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2. Subpart B is revised to recodify existing §§ 228.5 through 228.9 as 228.4 through 228.8, to add a new § 228.9, and to change references in § 228.19 to comport to the recodification, as follows:

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

§ 228.4 State plan requirements.

Each State which establishes a services plan under title XX shall operate it under a State plan, approved as meeting the requirements of §§ 228.5 through 228.16.

§ 228.5 Appropriate State agency.

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§ 228.6 State financial participation.

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§ 228.7 Statewide operation.

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§ 228.8 Merit system.

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§ 228.9 Requirement to obtain certain information.

The State plan shall provide that the State require the following providers of title XX services to comply with the requirements of § 228.72 regarding submission of information concerning ownership or control and past business transactions:

(a) Each private provider (other than an individual practitioner or group of practitioners) with whom the State or local agency contracts for medical or remedial care (as defined in § 228.1); and

(b) Each private agency with whom the State or local agency contracts for health-related homemaker services (as defined in § 228.72(a)(4)).

§ 228.19 Noncompliance.

(a) *Withholding of payment.* If the Secretary, after reasonable notice and opportunity for a hearing to the State, in accordance with 45 CFR 213, finds that the plan of the State no longer complies with any of the requirements of § 228.5 through § 228.16, that in the administration of the plan, there is a substantial failure to comply with any of those requirements, or that there is a substantial failure to comply with the requirements of §§ 228.17 or 228.18, he shall, except as provided in paragraph (b) of this section, notify the State that further payments will not be made to the State under this part until he is satisfied that there will no longer be any such failure to comply.

(b) *Alternate 3 percent penalty.* The Secretary may suspend implementation of any termination of payments under paragraph (a) of this section for such period as he deems appropriate and, alternatively, reduce the amount otherwise payable to the State under this part for expenditures during that period by 3 percent for each requirement set forth in § 228.5 through § 228.18 with respect to which there was a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any failure to comply.

Subpart D—Limitations: Services

3. Section 228.40 is revised to add a paragraph (d) as follows:

§ 228.40 Minor medical and remedial care.

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(d) FFP is not available for medical or remedial care or health-related homemaker services purchased from a private provider for any period during which the provider fails to comply with § 228.72(d) that requires disclosure of certain information about past business transactions.

4. Subpart G is revised to add paragraph (14) to § 228.70, and to add §§ 228.72 and 228.73 as follows:

Subpart G—Purchase of Service

§ 228.70 Procurement standards.

FFP is available in the costs of purchased services only if they are secured in accordance with relevant provisions of Subpart P of 45 CFR 74, and the requirements of this Subpart.

(a) *Written contracts.* The State agency executes a written contract in accordance with requirements under this part and 45 CFR 74.166 with the agency, individual, or organization from which services are purchased. In addition to the applicable requirements of § 74.166, the contract shall:

* * * * *

(14) In the case of a private provider of medical or remedial care or health-related homemaker services, include a provision that the provider will comply with the requriements of § 228.72 regarding submission of certain information about ownership or control, past business transactions, and certain other disclosing entities. * * * * *

§ 228.72 Disclosure of information about ownership and

business transactions. (a) *Definitions.* For purposes of this section, § 228.73, and § 228.9, the following definitions apply: (1) *Agent* means any person (including a corporation, where applicable) to whom a provider delegates the authority to obligate or act. (2) *Convicted* means that a Federal, State or local court has entered a judgment of conviction, regardless of whether an appeal from that judgment is pending. (3) *Group of practitioners* means two or more providers of medical or remedial care who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment). (4) *Health-related homemaker services* means homemaker services provided for persons who need personal care and other appropriate services in the home because they have medical problems. (5) *Indirect ownership interest* means any ownership interest in an entity that has ownership interest in the provider. The term includes an ownership interest in any entity that has an indirect ownership interest in the provider. (6) *Managing employee* means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over the hospital, nursing facility, or other institution, organization, or agency, or who, directly or indirectly, conducts the day-to-day operations of the institution.

(7) *Other disclosing entity* means any other title XX disclosing entity and any entity that does not participate in title XX, but is required to disclose certain information of ownership or control because of participation in any of the programs established under titles V, XVIII, or XIX of the Social Security Act This includes:

(i) A provider, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act) furnishing services under the Medicare program;

(ii) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Act or under a State Medicaid plan; or

(iii) A carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of Part A or Part B of Medicare of the Act, or both, or for purposes of a State Medicaid plan.

(8) *Ownership interests* means the possession of equity in the capital, the stock, or the profits of the provider.

(9) *Person with an ownership or control interest* means a person (including, where appropriate, a corporation) who:

(i) Has an ownership interest of 5 percent or more in the provider;

(ii) Has an indirect ownership interest equal to 5 percent or more in the provider;

(iii) Has a combination of direct and indirect ownership interests equal to 5 percent or more in the provider;

(iv) Is the owner of an interest of 5 percent or more in any obligation secured by the provider, if the interest equals at least 5 percent of the value of the property or assets of the provider;

(v) Is an officer or director of a provider which is organized as a corporation or association; or

(vi) Is a partner in a provider which is organized as a partnership.

(10) *Provider* means a private non-profit or for-profit nongovernmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency or under sub-contract with a public or private agency to deliver medical or remedial care or health-related homemaker services funded under title XX.

(11) *Significant business transaction* means any business transaction or series of transactions which, during any one fiscal year, exceeds the lesser of either $25,000 and 5 percent of the total operating expenses of the provider.

(12) *Subcontractor* means an individual agency, or organization which by contract:

(i) Assumes major management functions of a provider (including determination of eligibility); or

(ii) Agrees to deliver specific services which a provider has agreed to deliver under contract with the State or local agency.

(13) *Supplier* means an entity from which a provider purchases goods and services used in fulfilling a contract with the State or local agency.

(14) *Wholly owned supplier* means a supplier wholly owned by the provider or wholly owned by a person or persons holding ownership or control interests in the provider.

(b) *Disclosure about ownership and control interests.* (1) Prior to the approval of a contract for the purchase of medical or remedial care or health-related homemaker services, a private provider must furnish to the State or local agency:

(i) The name and address of each person with an ownership or control interest in the provider or in any subcontractor in which the provider has direct or indirect ownership of 5 percent or more; and

(ii) The name and address of any other private provider or any other disclosing entity in which a person with an ownership or control interest in the provider also has an ownership or control interest. The provider shall request this information in writing from any person with an ownership or control interest in the provider. The provider shall also keep copies of all these requests and the responses to them, make them available to the Secretary or the State agency upon request, and advise the State agency when there is no response to a request.

(2) If a provider reports more than one name of persons described in paragraph (b)(1) of this section, and any of the persons named are related to each other as spouse, parent, child, or sibling, it shall report this fact.

(c)(1) A State or local agency shall not approve or renew a contract or shall terminate an existing contract with a private provider of medical or remedial care or of health-related homemaker services, if the provider fails to disclose ownership or control information required under this section.

(2) Federal financial participation is not available for payments made to a private provider who fails to disclose ownership or control information as required by this section.

(d) *Disclosure about certain business transactions.* (1) A private provider of medical or remedial care or of health-related homemaker services shall provide, in response to a specific written request by the Secretary or State agency, complete information about:

(i) The ownership of any subcontractor with whom the provider has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request; and

(ii) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.

(2) The provider shall furnish such information within 35 days of a request of the Secretary, and shall respond to a request by a State agency within the period specified in regulations of the State agency.

(3) FFP is not available in expenditures for medical or remedial care or health-related homemaker services furnished by a provider who fails to comply with subparagraphs (1) and (2) of this paragraph.

§ 228.73 Disclosure of information about individuals convicted of crimes.

(a) *Disclosure.* (1) Any hospital, nursing facility, or other institution, organization, or agency for which funding is, or will be, claimed under title XX for the purchase of any social service, medical or remedial care, or health-related homemaker services shall disclose to the State title XX agency, the name of any person:

(i) Who has an ownership or control interest in, or is an agent or managing employee of, the hospital, nursing facility, institution, organization, or agency; and

(ii) Who has been convicted of a criminal offense related to the person's involvement in any programs under titles XVIII, XIX, or XX of the Social Security Act since the inception of these programs.

(2) This requirement applies to purchases made under a purchase of services contract or those made under an administrative support contract. It also applies whether the services are provided directly or under a subcontract.

(3) This information shall be provided to the State agency prior to the approval or renewal of a contract for purchase of social services, medical or remedial care, or health-related homemaker services.

(b) *Reports to the Inspector General.* The State agency shall notify the Inspector General of the Department of Health, Education, and Welfare within 20 working days of the receipt of any application or request for participation which discloses the name of a person described in paragraph (a), and shall provide the name to the Inspector General. The State agency shall also notify the Inspector General of any action it takes on the application or request.

(c) *State agency denial or termination of provider participation.* (1) The State agency may refuse to enter into or renew a purchase of services contract, or otherwise refuse to approve a provider for participation under title XX, if any person who has an ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established under titles XVIII, XIX, or the title XX social services program.

(2) The State agency may refuse to enter into or may terminate a contract if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

5. Section 228.90 of Subpart I is revised to add a sentence at the end of (b)(2) to read as follows:

§ 228.90 Expenditures for which Federal financial participation is available.

* * * * *

(b) Under this Part, expenditures for the following are considered appropriate for the effective and efficient administration of the program:

* * * * *

(2) Costs or related expenses, such as equipment, furniture, supplies, communications, and office space; transportation (such as tokens or tickets); and medical examinations, when necessary for the development of a services plan or when precedent to obtaining a service for an individual, provided such medical examination is not available to the individual under title XVIII or title XIX of the Act. Contracts for medical examinations or other health-related services under an administrative support agreement are subject to the disclosure provisions of § 228.72 and § 228.73.

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[FR Doc. 79-21824 Filed 7-16-79; 8:45 am]
BILLING CODE 4110-92-M

federal register

Tuesday
July 17, 1979

Part III

Department of Energy

Industrial Energy Conservation Program; Proposed Reporting Forms; Public Hearings

DEPARTMENT OF ENERGY

[10 CFR Part 445]

[Docket No. CAS-RM-79-302]

Industrial Energy Conservation Program; Proposed Reporting Forms and Public Hearings

AGENCY: Department of Energy.

ACTION: Proposed Plant, Corporate and Sponsor Reporting Forms.

SUMMARY: The Department of Energy (DOE) is proposing three rreporting forms for the collection of data on industrial energy efficiency and utilization of energy-saving recovered materials under its Industrial Energy Conservation Program (program). DOE has prepared these reporting forms pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. DOE has recently proposed comprehensive regulations for the operation of the program (44 FR 33344, June 8, 1979) which set forth the reporting requirements of the program and make reference to the forms. The proposed forms set out in appendices I, II and III of this notice are for use by (1) plants of corporations required to report under the program (identified corporations) in reporting to their corporate headquarters; (2) identified corporations in reporting to DOE or DOE-approved third party sponsors; and (3) third party sponsors in reporting to DOE.

DATES: Written comments must be received by 4:30 p.m., e.d.t., September 17, 1979. Three public hearings, each addressing all three of the proposed forms, will be held at the places and on the dates indicated below.

ADDRESSES: Send written comments to: Margaret Sibley, Docket No. CAS-RM-79-302, Office of Conservation and Solar Applications, U.S. Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

HEARINGS: Public hearings will be held in three cities, beginning at 9:30 a.m. local time on the dates and locations specified below:

City	Hearing date	Request to testify by 4:30 p.m.	Submit requests to testify to—	Hearing location
Washington, D.C.	Aug. 27, 1979	Aug. 16, 1979	Margaret Sibley, DOE, Room 2221C, 20 Mass Ave. NW., Washington, D.C. 20585.	Room 3000A, 12th and Pennsylvania Ave. NW., Washington, D.C.
Chicago	Aug. 29, 1979	Aug. 16, 1979	Ken Johnson, DOE, 175 West Jackson Blvd., Room A-333, Chicago, IL 60604.	John C. Kluczynski, Federal Bldg., Room 349, 230 South Dearborn, Chicago, IL.
San Francisco	Aug. 31, 1979	Aug. 16, 1979	Robert Laffel, DOE, 111 Pine Street, San Francisco, CA 94111.	Holiday Inn, Crystal Room, 1500 Van Ness Avenue, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT:

O. Cleveland Laird, Jr., Office of Industrial Programs, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Room 5114, Washington, D.C. 20585, (202) 376-1757.

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Room 3228, Washington, D.C. 20585, (202) 376-9469.

Margaret W. Sibley, Office of Hearings and Dockets, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Room 2221C, Washington, D.C. 20585, (202) 376-1651.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Discussion of Proposed Reporting Forms.

A. Introduction.

B. General Provisions.

C. The Plant Reporting Form.

D. The Corporate Reporting Form.

E. The Sponsor Reporting Form.

III. Opportunities for Public Comment.

I. Background

The Federal Energy Administration (FEA) and its successor, the Department of Energy (DOE), implemented the Industrial Energy Conservation Program (the program), under the authority of Part D of Title III of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6341-6346). A description of the development and operation of the program to the present is provided in the preamble to the proposed regulations for the program issued by DOE on June 1, 1979, (44 FR 33344, June 8, 1979). The proposed regulations incorporate the experience gained by FEA and DOE in administering the program, the amendments to the EPCA enacted in the National Energy Conservation Policy Act (Pub. L. 95-619) (NECPA) and information received from participants in the program and the general public in public workshops on the program held during the past year. Subpart C of the proposed regulations (sections 445.21-445.26 of Chapter II of Title 10 of the Code of Federal Regulations) sets forth the reporting requirements for the program, as DOE proposes to administer it beginning in January, 1980.

Three types of reporting are covered by these provisions of Subpart C. Pursuant to section 375(c) of the EPCA, as amended, each plant of a corporation required to report under the program (identified corporation) is required to report to its corporate headquarters on the progress the plant has made during the reporting period in improving its energy efficiency.

Pursuant to sections 375(a) and (b) of the EPCA, as amended, each identified corporation is required to aggregate plant reports into a corporate report on the progress the corporation has made during the reporting period (compared with 1972) in improving its energy efficiency. Pursuant to section 374A(e) of the EPCA, as amended, certain identified corporations are also required to include in this corporate report information on the progress the corporation has made during the reporting period to increase its utilization of energy-saving recovered materials (recovered materials).

As required by sections 375(a) and 376(g) of the EPCA, as amended, such corporate reports may be submitted directly to DOE or, if a corporation is exempted from reporting directly to DOE (pursuant to criteria and procedures proposed by DOE as Subpart D of the proposed regulations), to a DOE-approved third party sponsor. Pursuant to section 376(g)(1)(B) of the EPCA, as amended, such sponsors are required to report to DOE on the aggregate progress of the identified corporations which have submitted reports to the sponsor in improving energy efficiency and (where appropriate) on increasing recovered materials utilization.

In the preamble to the proposed regulations, DOE has discussed the basis for the reporting requirements proposed in Subpart C, including the proposed provision that plant reports, corporate reports to sponsors and sponsor reports to DOE may be submitted on forms published by DOE or on alternative forms, if these alternative forms provide information identical to the DOE forms.

Comments on the reporting requirements of the program, rather than on the format and data elements of the forms proposed today, should be addressed to DOE as provided in

section IV "Opportunities for Public Comment" of the preamble to the proposed program regulations.

II. Discussion of Proposed Reporting Forms

A. Introduction

After considering its experience with existing reporting under the program, the requirements of the NECPA, and the information received through the public workshops on the program, DOE is proposing for public comment separate plant, corporate and sponsor reporting forms, as required by section 376(c) of the EPCA, as amended. The forms which appear in appendices I, II and III to this notice were developed by the Office of Industrial Programs, within the Office of the Assistant Secretary for Conservation and Solar Applications, which has the responsibility for management of the program.

The major purpose of these forms is to provide DOE with organized, consistent and complete information on improvement in industrial energy efficiency and increased utilization of recovered materials, as required by the EPCA, as amended. DOE has designed these forms to avoid imposing on any respondent (plant, corporation or sponsor) an undue burden in completing the forms, as required by section 375(d) of the EPCA, as amended. DOE will use this data to prepare and submit an annual report to the President and Congress on the progress being made in improving industrial energy efficiency and increasing industrial recovered materials utilization, as required by sections 374A(f) and 375(c) of the EPCA, as amended.

Comments are requested on the proposed forms as they implement the objectives of the program, including: (1) improved energy efficiency and increased utilization of recovered materials by U.S. manufacturing industry; (2) removal of constraints to improved industrial energy efficiency and appropriate utilization of recovered materials; and (3) accurate and useful reporting of energy efficiency improvement and recovered materials utilization. DOE is also interested in any comments on the administrative requirements of completing the forms. Such comments would be most useful if they describe the burden of any particular part of the forms, rather than stating that the forms in general are burdensome.

The following paragraphs explain the major provisions of the proposed forms and highlight other areas in which DOE is particularly interested in receiving public comment.

B. General Provisions

Three separate forms are proposed to collect the required information under the program: (a) the Plant Reporting Form CS 189–P (Appendix I) is to be used by the plants of an identified corporation to report energy efficiency improvement data to their corporate headquarters. The plant form may also be used, at the option of the identified corporation, to collect recovered materials utilization data at the plant level; (b) the Corporate Reporting Form CS 189–C (Appendix II) is to be used by identified corporations to report to DOE or a DOE-approved sponsor both energy efficiency improvement data and, if required, recovered materials utilization data; and (c) the Sponsor Reporting Form CS 189–S (Appendix III) is to be used by DOE-approved sponsors of adequate reporting programs to report to DOE both energy efficiency improvement data and, if required, recovered materials utilization data. The requirements as to whether a respondent must file a DOE form or may instead use an alternative form which provides the identical information are set forth in the program regulations and described in the instructions to each of the reporting forms.

As mentioned above, DOE has considered the experience of FEA and DOE with existing reporting under the program. FEA issued a form for use by identified corporations which reported directly to FEA (Form FEA U524–P–O). FEA received corporate reports filed on that form and received reports from FEA-approved sponsors filed pursuant to published requirements (41 FR 51866, November 24, 1976), but no report form for sponsor reports was prescribed. Plant reporting has not previously been addressed by the program. While the forms proposed today are significantly different from Form U524–P–O, they are designed to produce data on energy efficiency improvement which can be compared with data from earlier reporting under the program. Important changes in report design are discussed, as appropriate.

Several elements that are common to all three of the forms are discussed here. A booklet is provided for each reporting form containing: (a) a brief background of the program, (b) instructions for the preparation of the report and (c) one set of forms and worksheets (duplication of forms and worksheets is permitted). DOE is interested in comments on this format and the sufficiency and clarity of the general instructions provided.

Appropriate definitions have been included for each type of form. Most definitions are also in the proposed program regulations, and the definitions in the report forms are intended to be the same as those in the final rule. DOE is interested in any comments on the validity and clarity of the definitions provided and on the need for any other definitions.

Each of the reporting forms requires substantial narrative information in addition to quantitative data. The requirement to provide substantial narratives is a change from earlier reporting under the program which requested optional narrative commentary. DOE believes that these supplements to quantitative data are necessary to provide DOE with accurate information on industrial conservation efforts. DOE points out that completion of the narrative sections of each of the forms is required, unless otherwise indicated in the instructions to a particular form. DOE is interested in any comments on these narrative items.

C. The Plant Reporting Form

1. *Part 1: Identification and Other Information.*—In addition to requiring information on plant and corporate identification, items 1.6 and 1.7 on a plant's energy management program and energy efficiency improvement goals are included to focus the plant's attention on these areas and to determine the extent to which the plant (and the corporation) is actively involved in improving energy efficiency. DOE is interested in comments on the appropriateness of these items.

2. *Part 3A: Energy Consumption Data.*—A worksheet is provided to assist computation and, at the same time, provide a record of the basic information used in developing plant data on energy consumption. The instructions to the plant form explain that the worksheet must be submitted to the corporate headquarters with the plant report form to facilitate verification by DOE. Energy consumption data for 1972 is required in order to provide consistent baseline data. While DOE does not intend to use this information in developing quantitative data for its annual report on the program, DOE believes it is important to have such data available to analyze changes in consumption in various energy types over subsequent years.

Instructions are provided for determining what is included and excluded in energy consumption. While feedstocks are excluded from energy consumption reporting, as in the case of

previous reporting under the program, the instructions to the plant form require respondents to include (1) waste derived from feedstocks, used as fuel; and (2) products or intermediate products from feedstocks, used as fuel in determining energy consumption. DOE believes these additions to energy consumption are necessary to accurately monitor industrial energy efficiency and will not affect DOE's ability to compare data from future reports with data aggregated in previous annual reports.

DOE is interested in comments on the worksheet and the request for 1972 data, as well as any comments on the instructions for energy to be included and excluded from energy consumption, the table of energy types, and conversion factors provided for use where actual conversion figures cannot be provided.

3. *Part 3B: Narrative Commentary on Energy Consumption.*—This part is designed to require information which would explain the quantitative changes that have occurred in actual energy consumption during the current reporting period, as compared with 1972, and which are reported in Part 3A. In addition, it is designed to demonstrate trends in plant (and corporate) plans regarding energy consumption in the future and the rationale behind them.

4. *Parts 4A and 4B: Evaluation of Factors Affecting Energy Use During the Reporting Period.*—Parts 4A and 4B of the plant form are additions to the earlier reporting requirements under the program. These items were developed to require the quantification, where possible, and analysis of the effect which factors, other than energy conservation, have on energy consumption and to encourage a better understanding of these effects by respondents. DOE believes that the quantification of those effects greatly improves the accuracy with which efforts directed toward energy conservation can be measured. Because DOE recognizes that plants may not currently be able to provide quantitative data on such factors, DOE is requiring plants only to indicate the effect of such factors at this time. However, DOE encourages plants and corporations to develop the ability to provide such quantitative data and may revise the form accordingly in the future to require such quantitative data. DOE is interested in any comments on these parts.

5. *Part 5A: Energy Efficiency Improvement.*—Data to be entered in Part 5A requires computations to be made on the worksheet which is provided. This worksheet must be submitted with the plant form. The items on the form which record energy efficiency improvement have been modified from the corresponding items in earlier reporting under the program. The term "current consumption adjusted to 1972 energy base" used in previous reporting was found to be confusing and this entry has been changed to "calculated consumption based on 1972 efficiency."

Item 5.4 allows respondents to make an optional energy efficiency improvement calculation, adjusted for the energy consumption effects of the factors provided in Part 4 of the form. The optional calculation can be made, however, only when all factors listed by a respondent as "significant" in Part 4 have been quantified. DOE believes that these modifications will provide more complete information on progress in improving energy efficiency. DOE is proposing to allow the optional calculation only when all quantitative data from Part 4 is available because adjusting for some factors alone may provide a distortion of the conservation effort. DOE is interested in comments on the instructions for completing the worksheet and making the optional calculation, as well as any other comments on Part 5A.

6. *Part 5B: Narrative Commentary.*—This part requires respondents to provide details of the energy efficiency improvement entered in Part 5A and to explain any barriers to further improvement. DOE believes that such listing will provide corporations and DOE with a better understanding of energy efficiency improvement efforts.

7. *Part 6A and B: Current Use of Recovered Materials Narrative Commentary.*—Parts 6A and B of the plant form are optional. Identified corporations in SIC's 22, 26, 30 and 33 are required to report on recovered materials utilization, but the EPCA, as amended, does not require such corporations to base their recovered materials utilization reports on plant report forms. However, for those identified corporations required to report on recovered materials utilization, Parts 6A and B of the plant reporting form offer a means of collecting complete and uniform data from its plants on recovered materials utilization. Parts 6A and B are designed closely after portions of the initial reporting form on the use of recovered materials, Form CS–153. DOE is interested in any comments on Parts 6A and B and the appropriateness of the items to plant level reporting, particularly in the light of user experience with Form CS–153.

D. The Corporate Reporting Form

The proposed corporate report form is intended to aggregate data from plant report forms, and the format of the corporate form is designed to coordinate with the items on the plant form. In general, the instructions direct the corporate respondent to enter on the corporate form aggregated data from the corresponding items on the plant forms. Because of this similarity between plant and corporate forms, the following discussion is limited to highlighting additional areas for comment peculiar to the corporate reporting form. DOE is also interested in the appropriateness of the items on the corporate form to corporate level reporting and the clarity and adequacy of the instructions to the corporate form.

1. *Part 2: Certification.*—All identified corporations must include a certification with the exact language as used in Part 2 of Form CS 189–C in their corporate report, regardless of whether they are using Form CS 189–C for reporting other required data. The name and signature block must be completed by the chief executive officer of the corporation or other officer designated by such officer. While DOE recognizes that portions of this report are based on judgment and opinion, the certification statement ensures that all the information in the report is the accurate representation of the corporation's energy efficiency improvement and, if appropriate, increased recovered materials utilization efforts to the best knowledge of the certifying official.

2. *Part 3A: Energy Consumption.*—The data for completing Part 3A is available from plant forms. Such data must include the appropriate energy consumption from all plants of the identified corporation. The instructions to Part 3A provide the respondent with guidance for appropriately treating data on energy consumption from plants of joint ventures which the respondent controls solely or with others and from plants of corporations under the common control of the respondent and others. DOE is interested in any comments on the clarity and completeness of these instructions as well as any additional comments on the items in Part 3A.

3. *Parts 3B, 4B and 5B: Narrative Commentaries.*—While most of the information for completing each of these narrative parts is available from plant forms, DOE believes there are often additional information and other considerations at the corporate level which must be included in compiling the entries for the items for these parts.

DOE is interested in any comments on the appropriateness of particular items and accompanying instructions to reflect these corporate level considerations.

4. *Parts 6A and B: Current Use of Recovered Materials and Narrative Commentary.*—Identified corporations in SIC 22, 26, 30 and 33 which are filing Form CS 189–C must complete section C, Parts 6A and B of the form. The data items and instructions are based on DOE's form for the initial report of the use of recovered materials, Form CS–153. However, the requirement for data on the use of self-generated scrap has been deleted, since DOE has not included self-generated scrap in the proposed recovered materials targets (as set forth in the proposed program rule) and, accordingly, does not need such data to measure progress towards these targets. DOE is interested in comments on section C of the proposed reporting form, particularly in light of user experience with Form CS–153.

E. The Sponsor Reporting Form

DOE is proposing the sponsor reporting form, Form CS–189–S to ensure that information on identified corporations reported by DOE-aproved sponsors of adequate reporting programs is aggregated in a manner consistent with DOE requirements for preparing a useful annual report on the program. The use of a form by a sponsor is a significant change from earlier reporting under the program. It should be noted that sponsors may collect data from non-identified corporations as well as from identified corporations, and DOE encourages the sponsors to report such data, as long as it is reported separately from information on identified corporations.

The format of the sponsor reporting form is similar to that for the plant and corporate reporting forms. The instructions to Form CS–189–S are designed to inform sponsors how to aggregate quantitative and narrative information from corporate reports. DOE is interested in the appropriateness of the form entries to sponsor level reporting and the adequacy and clarity of the instructions. The following additional items are highlighted for comment.

1. *Part 1A: Sponsor Identification and Other Information.*—The items in Part 1 are more detailed than for the plant and corporate report forms. Item 1.8 is designed to provide DOE with information on the sponsor's activities, if any, in addition to collecting reports from identified corporations, such as maintaining a specific program among its members for energy management (item 1.8A) or for specific industry energy efficiency improvement goals (item 1.8B). DOE believes that this information will assist it in the continuing analysis of the most appropriate role of the sponsors in the program.

2. *Part 1B: Listing of Participating Corporations and other Information.*—The items in Part 1B are particularly important to allow DOE to correctly analyze and aggregate the information reported by sponsors. DOE is interested in comments on these items and whether the instructions are sufficiently complete and clear, as well as comments on any other items that should be included.

3. *Parts 3B, 4B, 5B and 6B: Narrative Commentaries.*—DOE recognizes the difficulty in aggregating narrative material from corporate reports; however, DOE believes that the reporting of such interpretative and explanatory information is essential to improving reporting under the program. The narrative items on the sponsor form are designed to coordinate with the corresponding items on the plant and corporate reporting forms. DOE is interested in any comment on the usefulness of these items at the sponsor level.

The general instructions on completing narrative items (Instruction J) directs sponsors to aggregate narratives by categorizing repeated comments, where possible, and to supply individual corporate responses (without identifying the corporate respondents) where categorizing or summarizing is not appropriate. The sponsor must describe the method used in compiling the narratives in a separate narrative item. DOE recognizes that this method leaves significant discretion to the sponsors and is interested in any comments.

DOE is also requesting additional comments from sponsors on any item, based on the sponsor's review of the information collected and any other activities of the sponsor in addition to collecting corporate reports. DOE is interested in comments on this request for optional comments from sponsors.

4. *Section C: Recovered Materials Utilization.*—DOE is interested in comments on Section C and the instructions to it, particularly in the light of the experience of third party organizations in completing Form CS–153.

III. Opportunities for Public Comment

A. Written Comment Procedures

Interested persons are invited to participate in the development of the final reporting forms by submitting data, views, or arguments with respect to the proposed forms set forth in the appendices to this notice to Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, Docket Number CAS–RM–79–302, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

Comments should be identified on the outside of the envelope and on documents with the designation "Industrial Reporting Forms, Docket Number CAS–RM–79–302." Twenty-five copies should be submitted. All comments received by September 17, 1979, before 4:30 p.m. e.d.t., and all other relevant information, will be considered by DOE before final action is taken regarding the proposed reporting forms.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, and twenty-five copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearings

DOE has determined to have three public hearings, each addressing all three of the reporting forms. The hearings will be held at 9:30 a.m., local time, at the times and places indicated in the dates and addresses section of this preamble.

Any person who has an interest in these proceedings or who is a representative of a group of persons that has an interest in these proceedings may make a written request for an opportunity to make an oral presentation. All such requests should be directed to DOE at the address given at the beginning of this preamble, and must be received before 4:30 p.m., e.d.t., August 16, 1979. A request may be hand delivered between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Requests should be marked, as for written comments, with the additional notation, "Request to Speak."

The person making the request should briefly describe the interest concerned, if appropriate, state why she or he is a proper representative of a group of

persons that has such an interest, and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted. Each person selected to be heard will be notified by DOE before 4:30 p.m., e.d.t. local time, August 17, 1979. Each person selected to be heard must submit twenty-five copies of his or her statement to the address given for written comments before 4:30 p.m., e.d.t., August 22, 1979. In the event any person wishing to testify cannot provide twenty-five copies, alternate arrangements can be made in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling Ms. Margaret Sibley at 202–376–1651.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at the hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at each hearing. These will not be judicial or evidentiary type hearings. Questions may be asked of speakers only by those conducting a hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of a hearing will be based on all information available to DOE. At the conclusion of all initial oral statements at each hearing, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked, by those conducting a hearing, of any person making a statement. Questions should be received at the address given for written comments before 4:30 p.m., e.d.t., August 24, 1979. DOE will determine whether the question is relevant, and whether the time limitations permits it to be presented for answer.

Any person making an oral statement who wishes to ask a question at a hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitation permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of each hearing will be announced by the presiding officer.

A transcript of each hearing will be made and the entire record of each hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Forrestal Building, Independence Avenue and L'Enfant Plaza, S.W., Washington, D.C. between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any person may purchase a copy of a transcript from the reporter.

(Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619); Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended; E.O. 11790 (39 FR 238185); The Department of Energy Organization Act (Pub. L. 95–91); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., July 12, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY
CONSERVATION AND SOLAR APPLICATIONS
OFFICE OF INDUSTRIAL PROGRAMS
WASHINGTON, D.C. 20585

APPENDIX I

INDUSTRIAL ENERGY CONSERVATION PROGRAM

FOR

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION

PLANT REPORTING FORM CS 189-P AND INSTRUCTIONS

Under the provisions of the Energy Policy and Conservation Act (the Act), as amended by the National Energy Conservation Policy Act, certain corporations in major energy consuming industries are required to report data on energy efficiency improvement and on recovered materials utilization to the Department of Energy (DOE). The regulations governing the identification of corporations required to report and establishing the reporting requirements are contained in Title 10 of the Code of Federal Regulations (C.F.R.), Part 445, entitled "Industrial Energy Conservation Program". This booklet contains the form and instructions for reporting by plants of identified corporations.

Energy efficiency improvement data reported by identified corporations must include data aggregated from plant reports. Each plant of an identified corporation must report to the corporation at its headquarters in the United States on the progress the plant has made during the reporting period in improving its energy efficiency in each energy-consuming industry within which the corporation is identified.

Recovered materials utilization data are to be reported by identified corporations which are within SIC Codes 22, 26, 30 or 33. These corporations are encouraged, but are not required, to aggregate data from optional Section C of the plant reporting form included in this booklet.

The data reported by the identified corporations will allow DOE to monitor the progress in energy efficiency improvement and the increased use of recovered materials by industry. DOE will, in turn, report that progress to the Congress and to the President as required by the Act.

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GENERAL INSTRUCTIONS

A. PURPOSE OF THIS FORM

Form CS 189-P is designed to collect information from plants of manufacturing corporations on improving energy efficiency and, optionally, on using recovered materials. The quantitative results obtained from the reporting program are used by DOE to measure changes in energy efficiency and use of recovered materials in certain industries. Narrative portions of the report provide the opportunity to explain and discuss the quantitative data as well as to identify barriers to achieving further energy efficiency improvements or greater use of recovered materials.

B. WHO MUST SUBMIT THIS FORM

Pursuant to Section 375(b) of the Act, energy efficiency improvement reports by identified corporations must include data aggregated from plant reports. Plant reports must be submitted by each plant to the corporation on either DOE Form CS 189-P (sections A and B in this booklet) or on a plant reporting form developed and used by the identified corporation, together with a complete index referencing each and every item on Form CS-189-P to the identical items on the form submitted. It is the obligation of each identified corporation to forward the appropriate plant reporting forms to all the plants (including plants of joint ventures and corporations under common control) under the control of the identified corporation.

Recovered materials utilization data may be reported on Section C of Form CS 189-P.

C. WHEN TO SUBMIT THIS FORM

Plant reports must cover the period January 1 through December 31 of the preceding year and should be submitted to corporate headquarters by a time set by the corporation to allow it to meet its obligation to report to the DOE not later than July 15 each year. Contact your corporation for the exact date.

D. WHERE TO SEND THIS FORM

Submit plant reports and worksheets to the headquarters, in the United States, of the identified corporation of which the plant is a part. Identified corporations must provide plants with the appropriate filing address.

E. DATA RETENTION AND VERIFICATION REQUIREMENTS

The plant reports and worksheets are not to be filed with DOE. However, all data used by an identified corporation in preparing reports under this program, including plant reports and worksheets submitted to the corporation, must be retained by the corporation for at least five years from the filing date and must be made available to DOE promptly upon request for verification.

F. REVISION OF REPORTS

If new information is received, or errors are found in the original report, plants must submit a revised form to their parent corporation.

G. AUTHORITY TO COLLECT

The requirement that plants provide this information is made pursuant to Section 375(c) of the Act; Section 376(b) of the Act; Section 13(b), 5(b)(7) and 5(a)(3) of the Federal Energy Administration Act (15 U.S.C. 772 et. seq.), and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7150).

H. DEFINITIONS

For the purposes of this form:

"Act" - the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619, 92 Stat. 3207).

"Btu" - British thermal unit.

"Commercial quality production" - the manufacture of products suitable for shipment and/or sale.

"Control" - the ability to direct or cause the direction of the management and policies of a corporation. Whether control is present involves a question of fact to be determined from such criteria as degree of ownership (especially of voting shares), contractual arrangements, and other means of influence, such as ability to appoint a majority of corporation's board of directors, whether by sufficient stock ownership or other means.

"Corporation" - a person as defined in Section 3(2)(B) of the Act (any corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company) and includes any person which controls, is controlled by, or is under common control with such person.

"DOE" - the Department of Energy.

"Energy efficiency" - the amount of energy consumed per unit of production.

"Energy type" - electricity, purchased steam, natural gas, bituminous coal, anthracite, coke, ethane, propane, LPG, natural gasoline, gasoline (including aviation), special naphtha, kerosene, distillate fuel oil (including diesel), still gas, petroleum coke, residual fuel oil, crude oil, and any other material consumed as a fuel in manufacturing.

"Feedstock" - petroleum products, natural gas or coal used as a raw material which is processed to become a part of the chemical composition of a manufactured product other than an energy type.

"Identified corporation" - a corporation identified by DOE in accordance with 10 C.F.R. § 445.15. A corporation is an identified corporation for the year in which it consumed, in accordance with 10 C.F.R. § 445.13, at least one trillion Btu's.

"Major energy consuming industry" - an industry listed in 10 C.F.R. §445.5(a).

"Manufacturing" - the mechanical or chemical transformation of materials or substance into new products, as described on page 57 of the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Manufacturing operation" - the mechanical or chemical transformation of materials or substances into a product classified within SIC codes 22, 26, 30, or 33; which is measured in a single unit of production. Manufacturing operaions include, but are not limited to, the production of iron, steel, aluminum, copper, lead, zinc, wood pulp, paper, spun textile goods, tires and tire products, rubber footwear, and industrial rubber products.

"Obsolete scrap" - recovered materials created by the use and subsequent discard of a product. Examples are discarded tires, automobiles, and newspapers. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Plant" - an economic unit of a corporation at a single physical location where manufacturing is performed.

"Plant Manager" - the individual who is in charge of the plant.

"Product" - an item or grouping of items (separate parts of, or all of a product line) that is the production of a manufacturing corporation that is classified within a major energy-consuming industry.

"Production" - the quantity of corporation's product output, throughput, or activity.

"Program" - the Industrial Energy Conservation Program.

"Prompt industrial scrap" - recovered materials generated by an industrial process and used as input to a manufacturing operation other than the industrial process which generated it. An example is metal fabrication stamping waste which is used in manufacturing steel. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Recovered materials" - any of the following energy-saving recovered materials: aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste.

"SIC" - the Standard Industrial Classification system described in the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Solid waste" - any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities; but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation flows, or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

"United States" - each of the several States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.

"Virgin material" - a substance other than a recovered material used as input to a manufacturing operation, which can be replaced, at least in part, by a recovered material in a manufacturing operation.

"Waste" - any waste, purchased or self generated, used as fuel.

I. HOW TO USE THIS BOOKLET

Remove the perforated form (colored pages), and the two worksheets behind the report form, from this booklet. This will allow you to follow the instructions as you fill out the form.

Provision is made at the top of each page for identifying the number of that page and the total number of pages in the report. Parts 3B, 4B, 5B and 6B require respondents to provide a narrative commentary. Submit responses on supplemental sheets, and identify each such sheet with the following heading:

Page ____ of ____ Plant_____ SIC ____ Year ___

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

PLANT REPORTING FORM
SUPPLEMENTAL SHEET

In addition, identify each line addressed, e.g., Line 3.22.

Form CS 189-P
Page 1 of _____

(colored paper)

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIAL UTILIZATION REPORT

PLANT REPORTING FORM

Sections A and B of this Report are Mandatory Under Public Laws 95-619, 94-163 and 93-276

- - - -SECTION A: GENERAL INFORMATION- - - -

PART 1: IDENTIFICATION AND OTHER INFORMATION

1.1A What is the name and address of your plant?_____

_____

_____

_____

B What is the name and address of the identified corporation of which your plant is a part?_____

_____

_____

_____

1.2 What two-digit SIC codes are covered in this report?

A Energy Efficiency Improvement Data SIC Codes:_____

B Recovered Materials Data SIC Codes:_____

1.3 What reporting period is covered in this report? Calendar year 19___

1.4 Who are the contact persons:

A For Energy Data: Name_____
Title_____
Telephone No._____

B For Recovered Materials Data (if different from A):
Name_____
Title_____
Telephone No._____

1.5 Check if this is a revised report ☐

1.6 Does your plant have a specific program emphasizing energy management?

Yes ☐ No ☐

1.7 Does your plant have specific energy efficiency improvement goals?

Yes ☐ No ☐

PART 2: SUBMITTING OFFICIAL

2.1 I certify that the information provided herein and appended hereto is true, accurate and complete to the best of my knowledge.

Name of Plant Manager:_____

Signature:_____ Date:_____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within his or her jurisdiction.

Form CS-189-P Plant_____ SIC _____ Year _____.
Page ___of___

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT .

PLANT REPORTING FORM

---- SECTION B: ENERGY EFFICIENCY IMPROVEMENT---- (colored paper)

PART 3A: ENERGY CONSUMPTION DATA

For each energy type below, enter the consumption data requested	A Current Reporting Period Consumption (Billion Btus)	B 1972 Consumption (Billion Btus)
3.1 Electricity		
3.2 Natural gas		
3.3 Bituminous coal		
3.4 Anthracite		
3.5 Coke		
3.6 Ethane		
3.7 Propane		
3.8 LPG		
3.9 Natural gasoline		
3.10 Gasoline (including aviation)		
3.11 Special naphtha		
3.12 Kerosene		
3.13 Distillate fuel oil (including diesel)		
3.14 Still gas		
3.15 Petroleum coke		
3.16 Residual fuel oil		
3.17 Crude oil		
3.18 Purchased steam		
3.19 Other (specify)		
3.20 TOTAL ENERGY CONSUMPTION		
3.21 Wastes Used As Fuel (see instruction L)		

PART 3B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated in the instructions to this form.

3.22 Explain any significant changes that have occurred in the types of energy used.

3.23 What plans do you have to change to different energy types? Explain.

3.24 What types of wastes are used as fuel and in what quantities?

3.25 List any plans you have to use additional wastes as fuel.

3.26 Provide any other comments desired.

Form CS 189-P
Page ___of___

Plant_____ SIC _____ Year_____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

PLANT REPORTING FORM (colored paper)

- - - - SECTION B: ENERGY EFFICIENCY IMPROVEMENT- - - -

PART 4A: EVALUATION OF FACTORS AFFECTING ENERGY USE DURING THE REPORTING PERIOD

Factors affecting energy use	What is the effect of each factor on energy use compared with 1972? If unknown check box below (A)	If negligible check box below (B)	If significant, enter + for increased use or - for decreased use in the box below and answer (D) (C)	What is the change in use compared with 1972? Answer in Billions of of Btu's or state "unable to quantify" (D)
4.1 Weather	☐	☐	☐	_____
4.2 Capacity Utilization	☐	☐	☐	_____
4.3 Product Mix	☐	☐	☐	_____
4.4 Product Quality	☐	☐	☐	_____
4.5 Raw Material and Feedstock Changes	☐	☐	☐	_____
4.6 Other Process Related Changes	☐	☐	☐	_____
4.7 Fuel Switching	☐	☐	☐	_____
4.8 Governmental Regulations	☐	☐	☐	_____
4.9 Other_____	☐	☐	☐	_____
4.10 Other_____	☐	☐	☐	_____
4.11 Other_____	☐	☐	☐	_____
4.12 Total				☐

PART 4B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated in the instructions to this form.

4.13 For all factors marked both as having "significant effect" (C), and "unable to quantify" (D), what are your plans to quantify the effects?

4.14 For all factors checked as having an "unknown" effect (A), what are your plans to determine the significance of these factors?

4.15 Does your plant data allow a meaningful assessment to be made of the total effect on energy use of the factors affecting energy consumption? If not, what are your plans to make such an assessment?

4.16 Provide explanations for factors 4.6, 4.9, 4.10, 4.11, if used.

4.17 Provide any other comments desired.

(colored paper)

Form CS 189-P Plant_____ SIC_____ Year_____
Page ___of____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

PLANT REPORTING FORM

---- SECTION B: ENERGY EFFICIENCY IMPROVEMENT----

PART 5A: ENERGY EFFICIENCY IMPROVEMENT

5.1 Energy consumption during current reporting period (enter from Worksheet Col. F) [ ] Billions of Btu

5.2 Calculated consumption based on 1972 energy efficiency (enter from Worksheet Col. E) [ ] Billions of Btu

5.3 Energy efficiency improvement relative to 1972

$$\frac{(5.2)-(5.1)}{(5.2)} \times 100$$

[ ] %

Optional Calculation

5.4 Adjusted energy efficiency improvement relative to 1972: adjustment made for the effect of factors quantified in Part 4, in order to demonstrate the effect of conservation efforts alone.

$$\frac{5.2-(5.1\text{-line } 4.12)}{(5.2)} \times 100$$

[ ] %

PART 5B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated on the instructions to this form.

5.5 What significant energy conservation measures have been adopted in this reporting period and have contributed to the improvement shown in line 5.3?

5.6 Make any other comments on conservation achievements or constraints (e.g., on the technological, economic and institutional factors which constrain further improvements in energy efficiency, and on the impact of Federal policies on energy use). Recommend any policy changes which would encourage improved energy efficiency.

5.7 Provide any other comments desired.

(colored paper)

Form CS 189-P
page ___of_____

Plant_____SIC_____Year_____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

PLANT REPORTING FORM

---- OPTIONAL SECTION C: RECOVERED MATERIALS UTILIZATION----

PART 6A: CURRENT USE OF RECOVERED MATERIALS

	Column-___	Column-___	Column-___
6.1 Enter in the columns provided the manufacturing operations performed for the SIC and year indicated above			
6.2 What recovered materials were used in each operation?			
6.3 What was the unit of production in each operation?			
6.4 What was the amount of production in each operation?			
6.5 How much virgin material was used in each operation?			
6.6 How much prompt industrial scrap was used in each operation?			
6.7 How much obsolete scrap was used in each operation?			

(colored paper)

Form CS 189-P Plant_____ SIC_____Year____
Page ___of___

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

PLANT REPORTING FORM

- - - - OPTIONAL SECTION C: RECOVERED MATERIALS UTILIZATION - - - -

PART 6B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s) as indicated in the instructions to this form.

6.8 Provide any explanatory comments which would assist in interpreting the data in Part 6A.

6.9 Technological, economic and institutional factors: provide a narrative description of any technological, economic and institutional factors which affect (encourage or constrain) the increased use of energy-saving recovered materials. Such factors as the availability of materials in the market place, the energy and capital equipment required, and the influence of the price of scrap on reuse may be included.

6.10 Federal policy impacts: discuss the impact of current Federal policy on the use of recovered materials by your plant. Recommend policy changes which would encourage increased use in a constructive and positive manner.

6.11 Reporting company initiatives: how is your plant or corporation encouraging the separation, collection and beneficiation of scrap by others?

6.12 Provide any other comments desired.

Plant _____ SIC _____ YEAR ____

WORKSHEET FOR PART 3A: ENERGY CONSUMPTION DATA

Enter the Btu Consumption for each energy type for the current reporting period (Column C) and for 1972 (Column F) in the appropriate lines in Part 3A.

		Col. A	Col. B	Col. C	Col. D	Col. E	Col. F
		CURRENT REPORTING PERIOD			1972		
Energy Type	Unit	Conversion Factor	Quantity Consumed	Consumption (Billion Btus)	Conversion Factor	Quantity Consumed	Consumption (Billion Btus)
3.1 Electricity	kWh						
3.2 Natural gas	cu. ft.						
3.3 Bituminous coal	Short Ton						
3.4 Anthracite	Short Ton						
3.5 Coke	Short Ton						
3.6 Ethane	bbl.						
3.7 Propane	bbl.						
3.8 LPG	bbl.						
3.9 Natural gasoline	bbl.						
3.10 Gasoline (including aviation)	bbl.						
3.11 Special naphtha	bbl.						
3.12 Kerosene	bbl.						
3.13 Distillate fuel oil (including diesel)	bbl.						
3.14 Still gas	cu. ft.						
3.15 Petroleum coke	Short Ton						
3.16 Residual fuel oil	bbl.						
3.17 Crude oil	bbl.						
3.18 Purchased steam							
3.19 Other (specify)							

PLANT _____ SIC _____ YEAR _____

WORKSHEET FOR PART 5A: ENERGY EFFICIENCY DATA

Col. A	Col. B	Col. C	Col. D	Col. E	Col. F
Product or Process	Production Measure (Unit)	1972 energy efficiency (Btu/unit)	Current reporting period production (quantity of units)	Calculated consumption based on 1972 efficiency (Col. C x Col. D)	Current consumption (billion Btu)
TOTAL					

Enter on line 5.2

Enter on line 5.1
Check with line
3.20A

INSTRUCTIONS FOR SECTION A

J. Submit only one Section A for all SIC codes being reported. Enter information as requested in Parts 1 and 2 of the form.

INSTRUCTIONS FOR SECTION B

K. Complete a separate set of Parts 3 through 5 for each 2-digit SIC code for which a plant is reporting. Enter the plant, SIC code and year on the top of each page of each set of forms. Forms in this booklet may be reproduced as required.

L. PART 3A: ENERGY CONSUMPTION DATA

Provide energy consumption data for the reporting period for the listed energy types. Where energy is consumed in one SIC code for the purposes of manufacturing an end product in another SIC code and such energy cannot be separately identified, report the energy consumed in the SIC code of the end product.

To avoid double-counting in the case of thermally self-generated electricity, plant electricity consumption shall be comprised only of purchased electricity and self-generated hydropower. For example, where a plant consumes coal in the thermal generation of electricity for its own use, the Btu's of the coal, but not the Btu's of the electricity, shall be included.

Develop this data on the Worksheet for Part 3A: Energy Consumption Data, then transcribe to Part 3A of the form. The Worksheet must be submitted with the plant report.

In determining energy consumption, respondents must report all energy used or included in:

- Direct manufacturing activities
- Thermal self-generation of electricity
- Heating, ventilating and air conditioning of manufacturing buildings and plant offices as well as manufacturing services such as shops, cafeteria, other plant personnel services, and plant chemical and analytical laboratories
- In-plant transportation, such as lift-trucks, conveyors, cranes and railroads
- Products or intermediate products from feedstocks, used as fuel
- Transportation to manufacturing facilities from mining operations owned by the manufacturer
- Raw material storage
- Services for finished product warehouses within a plant fence if directly related to manufacturing operations
- Waste derived from feedstocks, used as fuel.

Where such energy use is metered separately or can otherwise be identified, the plant report must exclude the following energy uses:

- Feedstocks
- All uses of electricity self-generated by thermal means
- Services for corporate and divisional offices not contiguous to a plant
- Services for basic research not contiguous to a plant
- Services for regional distribution centers
- Fuel for corporate aircraft, salesmen's cars and over-the-highway trucks
- By-product fuels sold and shipped or stored for sale
- Facility start-up energy (to point of initial commercial quality production)
- Waste, except waste derived from feedstocks, used as fuel
- Transport of intermediate product to another producer for finishing within the same two-digit industry
- Fuels received for storage and later disposition

Energy consumption is to be based on the higher heating value of the fuel consumed. Where company standards require lower heating values the data must be adjusted to higher values for this report. The following table of conversion factors, based on higher heating values, must be used where the actual Btu content of an energy type cannot be documented.

Energy type	Conversion Factor (Btu's/energy unit)
Electricity, except for SIC codes 28 and 29	3,412/kwh
Electricity, for SIC codes 28 and 29, both purchased and self-generated hydropower	10,000/kwh
Natural gas	1,020/cu. ft.
Bituminous coal	22,565,000/short ton
Anthracite	25,400,000/short ton
Coke	26,000,000/short ton
Ethane	3,082,000/bbl
Propane	3,848,000/bbl
LPG	4,011,000/bbl
Natural gasoline	4,620,000/bbl
Gasoline (including aviation)	5,248,000/bbl
Special naphtha	5,248,000/bbl
Kerosene	5,670,000/bbl
Distillate fuel oil (including diesel)	5,825,000/bbl
Still gas	6,000/000/bbl
Petroleum coke	6,024,000/bbl
Residual fuel oil	6,287,000/bbl
Crude oil	5,800,000/bbl
Other energy types (including purchased steam)	(to be determined by calorimetric measurement or engineering standard as appropriate for consuming corporation)

From entries on the Worksheet, complete Part 3A of the form as follows:

Lines 3.1 through 3.19. Enter in column A energy consumption data for the current reporting period by energy type. Enter in column B the comparable energy consumption data for 1972. Once 1972 data has been developed, the same figures must be reported for all subsequent reports. Where a plant was not in operation in 1972, Column B is left blank.

Line 3.20. Compute the total energy consumption in billions of Btu's for both columns A and B.

Line 3.21. Enter the amount of energy used which was derived from the utilization of wastes, except for energy already included in line 3.20 in accordance with the instructions provided above.

M. PART 3B: NARRATIVE COMMENTARY ON ACTUAL ENERGY CONSUMPTION

This Part requires the respondent to comment on the data given in Part 3A. For example, any changes in relation to 1972 in the pattern of energy used by fuel type (e.g., substitution of oil and gas by coal) must be discussed. In addition, comment on the use of wastes as fuel with as much quantitative data as available. The reporting form includes four specific questions on these topics which must be answered. Constraints to fuel switching, or plans to implement a fuel switching program, could also be the subject of useful comments entered in this Part (comments on fuel switching related to energy efficiency should be made later on line 4.7 and in the narrative commentary, Part 4B).
Prepare your answers on separate sheets as indicated in instruction I.

N. PART 4A: EVALUATION OF FACTORS AFFECTING ENERGY USE DURING THE REPORTING PERIOD

Many factors affect energy consumption. To determine the true effect of energy conservation efforts, it is necessary to remove the effect of other factors. However, it is recognized that it may be difficult to quantify the effect of many of these other factors. This Part is designed to demonstrate the extent to which the effect of such factors is understood. Plants must check the appropriate boxes on the form, and quantify the effects of the various factors where known.

Note that the change in the effect of all such factors is in relation to their effect in 1972.

Consider the following in completing Part 4A.

Line 4.1, Weather is a particularly important factor for manufacturing operations in which space conditioning plays a major role in energy consumption (heating and cooling buildings, offices, work areas, storerooms, etc.). In order to allow for climatic differences from one year to the next, quantitative estimates may be based, for example, on "degree-day" data for both heating and cooling seasons.* To illustrate this, suppose the 1972 heating season included 1750 degree-days for a plant while the 1978 season had 2000 degree-days, the plant energy consumption for heating would be expected to increase by about 2000/1750, a factor of 1.14. The change in energy use to be entered on line 4.1 will be an increase in Btu's, equal to 0.14 times the 1972 energy use for heating. A similar estimate may be made for plants using air-conditioning in the summer. Note that the energy effect to be specified in line 4.1 is not in fact a "seasonal" adjustment, but refers to differences between corresponding seasons (heating or cooling) from one year to the next.

Line 4.2, Capacity utilization refers to the change in energy use resulting from a different level of capacity utilization between the current reporting period and 1972. In most plants, energy use is not directly proportional to throughput or production levels. It is often possible for plants to make reasonable estimates of the impact of variations in production level on energy use, and such estimates are to be reported on line 4.2.

Line 4.3, product mix, and 4.4, product quality, refer to changes in energy use resulting from differences in the products made by a plant, either in terms of the range of products made or in terms of quality changes in established product lines. An example of a change in energy use to be entered on line 4.4 by a cement plant might be that resulting from a change in portland cement fineness since 1972, as this would require more or less energy for grinding than in the base year for the same tonnage of production.

Line 4.5, raw material and feedstock change, is provided for such changes as a deterioration in ore grade for a copper smelting operation, or a change in crude oil type for an oil refinery, with no compensating change in product mix or quality in either case.

Line 4.6, other process related changes, is included for any special factor deemed appropriate in any particular plant: provide an explanation of any such factor in Part 4B.

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* A degree day is defined as the difference between the mean daily outdoor temperature and $65^{o}F$. A mean outdoor temperature of $80^{o}F$ therefore represents 15 "cooling degree days", while one of $50^{o}F$ represents 15 "heating degree days". Degree day data for a large number of cities is published as "Local Climatological Data" by the National Climatic Center, Ashville, N.C. 28801. The annual summary for each city contains current and historical cooling and heating degree days.

Line 4.7, fuel switching, accounts for any change in energy consumption due to changes in the types of energy used by a plant. An example of this would be the extra electrical energy required for mechanical handling and grinding of coal in a plant which has converted from oil and gas fuels to coal since 1972.

Line 4.8, Governmental regulations, refers to changes in energy requirements in order to comply with changed Federal, State and local regulations since 1972 (e.g., Environmental Protection Agency regulations). Note that the change relative to 1972 is to be reported, not the total energy requirement for environmental control and safety compliance. An example of an energy change to be entered in line 4.8 would be the electricity used for an electrostatic precipitator installed after 1972 to control particulate emissions from a plant.

Lines 4.9, 4.10 and 4.11 are included for optional use by respondents for special regulatory or other factors they consider appropriate to their operations. Explain any entry on lines 4.9, 4.10, and 4.11 in Part 4B.

Line 4.12, total changes in consumption due to the factors affecting energy use since 1972, is the sum of lines 4.1 through 4.11. This calculation should not be performed unless all factors marked significant have been quantified.

O. PART 4B: NARRATIVE COMMENTARY ON FACTORS AFFECTING ENERGY USE

Provide the information requested on separate sheets as indicated in instruction I.

In addition to answers to the three specific questions and any explanations for lines 4.6, 4.9, 4.10 and 4.11, make other comments which explain the replies given in this Part, or that reflect progress in understanding the process of evaluating these factors.

P. PART 5A: ENERGY EFFICIENCY IMPROVEMENT

Perform energy efficiency improvement calculations for each identified 2-digit industry in which a plant is reporting. Develop this data on the Worksheet for Part 5A: Energy Efficiency Data, and transfer the information from that worksheet to Part 5A of the form, where the calculation is then performed. Submit the worksheet with the plant report form.

The following example is provided to illustrate the use of this worksheet and demonstrate an energy efficiency improvement calculation.

Energy Efficiency Data:

Col.A	Col.B	Col.C	Col.D	Col.E	Col.F
Product	Production Measure (unit)	1972 Energy Efficiency (Btu/Unit)	Current reporting period production (quantity of units)	Calculated consumption based on 1972 efficiency (Col. C X Col. D)	Current consumption (billion Btu)
A	ton	600,000	1,600,000	960.0 billion	900.0
B	lbs.	100,000	1,000,000	100.0 billion	90.0
C	ft^3	45,000	1,000,000	45.0 billion	36.0
D	bbl	200,000	100,000	20.0 billion	17.5
E	piece	400,000	50,000	20.0 billion	17.5
Totals				1145.0 Enter on line 5.2	1061.0 Enter on line 5.1 Check with line 3.20A

Energy Efficiency Improvement Calculation

Energy Efficiency Improvement Formula: $\frac{(5.2) - (5.1)}{(5.2)} \times 100 =$ ____%

Example: $\frac{1145.0 - 1061.0}{1145.0} \times 100 =$ 7.3%

To derive the entries for the worksheet perform the following steps:

Step 1, Product (Column A). Enter each product within a two-digit SIC code industry which can be represented by a single, common, energy-efficiency figure.

Step 2, Production measure (Column B). Enter the units of production used in the calculation of energy efficiency.

Step 3, 1972 Energy efficiency (Btu's/unit) (Column C). Enter the 1972 energy-efficiency for each product entered in Column A, that is, the energy in Btu's attributable to a unit of production.

If the commercial quality production of any product began after 1972, the plant must enter the energy efficiency of the first year's production of that product as the 1972 energy efficiency.

Step 4, Current reporting period production (Column D). Enter the totals of current production using units that are consistent with the units selected for each energy-efficiency ratio calculation in Column C.

Step 5, Calculated Energy Consumption Based on 1972 Efficiency (Column E). Calculate the energy (in Btu's) that would have been required for the manufacture of each product during the current reporting period based on 1972 energy efficiency. Multiply the production level of each product in its respective units (as entered in Column D) by the corresponding energy-efficiency (as entered in Column C). Record the numbers in Column E. The total of Column E should be entered on line 5.2 of the form.

Step 6, Current Consumption (Column F). Enter the energy in Btu's required for the manufacture of each product during the current reporting period in Column F. Add the numbers in Column F and enter in line 5.1 of the form. The total of Column F must equal the entry on line 3.20A.

Step 7, Energy Efficiency Improvement Calculation. Enter on line 5.3 the performance improvement, rounded to one decimal place, as calculated by the method shown on the form (see example on page 10). In the event that the result is negative the improvement figure will be preceded by a minus sign.

Step 8, Optional Calculation of Adjusted Energy Efficiency Improvement. As covered previously in Part 4, it is recognized that it may not yet be possible to quantify many of the factors affecting energy consumption. However it is anticipated that, over time, each plant will develop a procedure to quantify the effects of all factors other than conservation so that adjusted performance can be calculated and the true results of the conservation effort will be known.

Where valid quantitative data on all factors affecting energy use marked as "significant" (see Part 4A) are available, calculation of "adjusted" performance is encouraged. When this calculation is made by the method shown on the form, the result may be entered on line 5.4.

Q. PART 5B NARRATIVE COMMENTARY

Provide the information requested on separate sheets as indicated in instruction I.

This part requires comment on the data given in Part 5A. It is particularly useful for responding plants to categorize and list the significant conservation measures that have been adopted and have resulted in energy efficiency improvement. Any comments on performance relative to plant or corporate goals may also be useful in interpreting the quantitative data in this report.

Finally, identify in the narrative commentary any problem areas constraining further improvements in energy efficiency (such as long lead times for key equipment, inability to finance capital investments in energy-efficient equipment, etc.). Recommendations for policy changes are sought which are felt might encourage improved energy efficiency.

INSTRUCTIONS FOR OPTIONAL SECTION C

R. Data on the current use of recovered materials may be reported by plants in Section C of Form CS 189-P. When Section C is used, it should be completed in accordance with the following instructions. Submit a separate Section C for each 2-digit SIC code which is reported.

S. PART 6A: CURRENT USE OF RECOVERED MATERIALS

Provide the following information.

Line 6.1. Enter in the columns provided the manufacturing operations performed within the SIC code during the year indicated. If a manufacturing operation uses more than one recovered material, that operation should be listed repeatedly on line 6.1 to correspond to the number of recovered materials used. (See line 6.2).

Line 6.2. Identify under the appropriate manufacturing operation the type of recovered material utilized in the manufacturing operation. In SIC 26, wood waste may be included as a recovered material but must be listed separately. Only recovered material which has the effect of reducing the amount of virgin material required by a manufacturing operation is to be included. As an example, waste rubber used to manufacture carbon black should be included; however,

waste paper or rubber which is burned for its energy content should not be included. Only one recovered material should be listed in a column. For example, if paper and wood waste are used in paper production, list paper production in two columns on line 6.1 with paper in one column of line 6.2 and wood waste in another column of line 6.2. Complete lines 6.3 through 6.7 for each combination of lines 6.1 and 6.2.

Line 6.3. For each manufacturing operation identify the physical unit in which production is measured, e.g. tons of output product or pounds of input materials.

Line 6.4. For each manufacturing operation identified on line 6.1, list the amount of production within the United States for the reporting period.

Lines 6.5 through 6.7 are self-explanatory. The quantities should be reported in units which are consistent with the units of production reported on line 6.3

T. PART 6B: NARRATIVE COMMENTARY ON RECOVERED MATERIALS UTILIZATION

Provide the information requested on separate sheets as indicated in instruction I.

This part also provides for comment on the data given in Part 6A in addition to the specific questions. Provide any explanatory comments which would assist in interpreting the quantitative data in this Section.

APPENDIX II

DEPARTMENT OF ENERGY
CONSERVATION AND SOLAR APPLICATIONS
OFFICE OF INDUSTRIAL PROGRAMS
WASHINGTON, D.C. 20585

INDUSTRIAL ENERGY CONSERVATION PROGRAM
FOR
ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION

CORPORATE REPORTING FORM CS 189-C AND INSTRUCTIONS

Under the provisions of the Energy Policy and Conservation Act, (the Act), as amended by the National Energy Conservation Policy Act, certain corporations in major energy consuming industries are required to report data on energy efficiency improvement and on recovered materials utilization to the Department of Energy (DOE). The regulations governing the identification of corporations required to report and establishing the reporting requirements are contained in Title 10 of the Code of Federal Regulations (C.F.R.), Part 445, entitled "Industrial Energy Conservation Program". This booklet contains the form and instructions for reporting by identified corporations.

The data reported by the identified corporations will allow DOE to monitor the progress in energy efficiency improvement and the increased use of recovered materials by industry. DOE will, in turn, report that progress to the Congress and to the President as required by the Act.

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GENERAL INSTRUCTIONS

A. PURPOSE OF THIS FORM

Form CS 189-G is designed to collect information from identified corporations on improving energy efficiency and on using recovered materials. The quantitative results obtained from the program are used by DOE to measure changes in energy efficiency and use of recovered materials in major energy-consuming industries. Narrative portions of the report provide the opportunity to explain and discuss the quantitative data as well as to identify barriers to achieving further energy efficiency improvements or greater use of recovered materials.

B. WHO MUST SUBMIT THIS FORM

Pursuant to Section 375 of the Act the chief executive officer (or officer designated by such officer) of each identified corporation is required to report annually on the progress the corporation has made in improving its energy efficiency in each major energy-consuming industry within which the corporation is identified, including data aggregated from plant reports.

It is the obligation of each identified corporation to forward the appropriate plant reporting forms to all its plants, including plants of corporations under the control (including joint and common control) of the identified corporation.

In addition, pursuant to Section 374 A(e) of the Act, the chief executive officer (or officer designated by such officer) of each corporation identified within any of SIC Codes 22, 26, 30 or 33, also is required to report annually on the progress the corporation has made to increase its utilization of recovered materials in each of these four industries within which the corporation is identified.

These reports must be submitted either directly to DOE or, for an exempt corporation, to a sponsor of an adequate reporting program. The procedures for becoming an exempt corporation are contained in Title 10 C.F.R. § 445.34. Identified corporations which are not exempt corporations must complete Form CS 189-C. Exempt corporations must complete either Form CS 189-C or a corporate reporting form, filed by the corporation with DOE as part of its request for exemption together with an index referencing each item on Form CS 189-C to the identical item on the form submitted, and the certification in Part 2 of Form CS 189-C.

C. WHEN TO SUBMIT THIS FORM

Reports must be received by DOE not later than July 15 each year. and must cover the period January 1 through December 31 of the preceding year. Where a corporation reports through a sponsor, the sponsor will require an earlier submission of this report to allow time for its own aggregation procedures; contact the sponsor for the exact date.

D. WHERE TO SEND THIS FORM

Exempt corporations should submit completed forms to their sponsor. All other identified corporations must submit completed Form CS 189-C to:

U.S. Department of Energy
Conservation and Solar Applications
Office of Industrial Programs
Room 5109
20 Massachusetts Avenue, N.W.
Washington, D.C. 20585

Additional copies of the reporting form may be obtained from the above address. Respondents may make duplicates and reports made on such duplicates will be accepted by DOE.

E. DATA RETENTION AND VERIFICATION REQUIREMENTS

Copies of data used by an identified corporation in preparing this report must be retained by the corporation for at least five years from the filing date and must be made available to DOE promptly upon request for verification.

All reports submitted by an exempt corporation to a sponsor under this program must be retained by the exempt corporation for at least five years from the filing data. Upon request for verification the reports must be made available promptly to DOE by the corporation.

F. REVISION OF REPORTS

If new information is received, or errors are found in the original report, corporations must submit a revised report to DOE (or to their sponsor).

G. CONFIDENTIALITY OF INFORMATION

A corporation which believes that any information provided to DOE is a trade secret or commercial or financial information that is privileged or confidential within the meaning of the Freedom of Information Act (FOIA) exemption in 5 U.S.C. 552(b)(4), and that disclosure of this information would cause significant corporate competitive damage to it, must so inform DOE. Each corporation making such a claim shall submit with its report a detailed item-by-item explanation of whether the information is customarily treated as confidential by the corporation and the industry, and a detailed explanation of the anticipated competitive damage which would result from public disclosure. The handling of information contained in Form CS 189-C will be governed by DOE's Industrial Energy Conservation Program regulations, 10 C.F.R.§445.4.

H. AUTHORITY TO COLLECT

The requirement that corporations provide this information is made pursuant to Section 375(a) and (b) of the Act; Section 374(A)(e) of the Act; Section 376(b) of the Act; Sections 13(b), 5(b)(7) and 5(a)(3) of the Federal Energy Administration Act (15 U.S.C. 772 et.seq); and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7150).

I. DEFINITIONS

For the purposes of this form:

"Act" - the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619, 92 Stat. 3207).

"Adequate reporting program" - means a reporting program which collects data from one or more corporations and which has been determined by DOE to be "adequate" for the purposes of the program, pursuant to 10 C.F.R. § 445.37.

"Btu" - British thermal unit.

"Chief Executive Officer" - within a corporation or a sponsor, the chief executive officer or other individual who is in charge of the corporation or sponsor.

"Commercial quality production" - the manufacture of products suitable for shipment and/or sale.

"Control" - the ability to direct or cause the direction of the management and policies of a corporation. Whether control is present involves a question of fact to be determined from such criteria as degree of ownership (especially of voting shares), contractual arrangements, and other means of influence, such as ability to appoint a majority of corporation's board of directors, whether by sufficient stock ownership or other means.

"Corporation" - a person as defined in Section 3(2)(B) of the Act (any corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company) and includes any person which controls, is controlled by, or is under common control with such person.

"DOE" - the Department of Energy.

"Energy efficiency"- the amount of energy consumed per unit of production.

"Energy type" - electricity, purchased steam, natural gas, bituminous coal, anthracite, coke, ethane, propane, LPG, natural gasoline, gasoline (including aviation), special naphtha, kerosene, distillate fuel oil (including diesel), still gas, petroleum coke, residual fuel oil, crude oil, and any other material consumed as a fuel in manufacturing.

"Exempt Corporation"- an identified corporation which DOE determines, pursuant to 10 C.F.R. § 445.37, is not required to report directly to DOE.

"Feedstock" - petroleum products, natural gas or coal used as a raw material which is processed to become a part of the chemical composition of a manufactured product other than an energy type.

"Identified corporation" - a corporation identified by DOE in accordance with 10 C.F.R. § 445.15. A corporation is an identified corporation for the year in which it consumed, in accordance with 10 C.F.R. § 445.13, at least one trillion Btu's.

"Major energy consuming industry" - an industry listed in 10 C.F.R. §445.5(a).

"Manufacturing" - the mechanical or chemical transformation of materials or substances into new products, as described on page 57 of the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Manufacturing operation" - the mechanical or chemical transformation of materials or substances into a product classified within SIC codes 22, 26, 30, or 33; which is measured in a single unit of production. Manufacturing operations include, but are not limited to, the production of iron, steel, aluminum, copper, lead, zinc, wood pulp, paper, spun textile goods, woven textile goods, felt textile goods, non-woven textile goods, tires and tire products, rubber footwear, and industrial rubber products.

"Obsolete scrap" - recovered materials created by the use and subsequent discard of a product. Examples are discarded tires, automobiles, and newspapers. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Plant" - an economic unit of a corporation at a single physical location where manufacturing is performed.

"Product" - an item or grouping of items (separate parts of, or all of a product line) that is the production of a manufacturing corporation that is classified within a major energy-consuming industry.

"Production" - the quantity of a corporation's product output, throughput, or activity.

"Program" - the Industrial Energy Conservation Program of DOE.

"Prompt industrial scrap" - recovered materials generated by an industrial process and used as input to a manufacturing operation other than the industrial process which generated it. An example is metal fabrication stamping waste which is used in manufacturing steel. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Recovered materials" - any of the following energy-saving recovered materials: aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste.

"SIC" - the Standard Industrial Classification system described in the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Solid waste" - any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities; but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation flows, or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

"Sponsor" - a trade association or other person who operates or intends to operate a reporting program which collects data from one or more corporations.

"United States" - each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"Virgin material" - a substance other than a recovered material used as input to a manufacturing operation, which can be replaced, at least in part, by a recovered material in a manufacturing operation.

"Waste" - any waste, purchased or self generated, used as fuel.

J. HOW TO USE THIS BOOKLET

Remove the perforated report form (colored pages), and the worksheet behind the report form, from this booklet. This will allow you to follow the instructions as you fill out the form.

Provision is made at the top of each page for identifying the number of that page and the total number of pages in the report. Parts 3B, 4B, 5B and 6B require respondents to provide narrative commentary. Submitt responses on supplemental sheets, and identify, each such sheet with the following heading:

Page___ of___ Corporation_____ SIC____ Year___

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM
SUPPLEMENTAL SHEET

In addition, identify each line addressed, e.g., Line 3.22.

INSTRUCTIONS FOR SECTION A

K. PART 1: IDENTIFICATION AND OTHER INFORMATION

Submit only one Section A for all SIC codes being reported. Enter the information requested.

L. PART 2: CERTIFICATION

All identified corporations must complete Part 2 of Form CS 189-C. If an exempt corporation is filing a report form other than CS 189-C, the signed certification should be attached to the form submitted.

This part must be completed each time this report is submitted or revised. Enter the name and title of the individual who has signed the certification and the date of the signature in the spaces provided. The individual who signs and certifies this form must be the chief executive officer of the identified corporation or such other corporate officer authorized by the chief executive officer to sign for him for this purpose.

INSTRUCTIONS FOR SECTION B

M. Complete a separate set of Parts 3 through 5 for each 2-digit SIC code for which a corporation is reporting. Enter the corporation name, SIC code and year on each page of each set of forms. Forms in this booklet may be reproduced as required.

N. PART 3A: ENERGY CONSUMPTION DATA

Energy consumption data for the corporation for each 2 digit SIC code in which the corporation has been identified is to be aggregated from comparable entries by fuel type on the plant reports.

Where a corporation controls a joint venture, that corporation shall include the energy consumed by the plants of the joint venture in its energy consumption. Where more than one corporation controls a joint venture, each controlling corporation shall include in its energy consumption an equal percentage of the energy consumed by the plants of the joint venture during the calendar year, for which the report is filed.

Where a corporation is under common control, each controlling corporation shall include in its energy consumption an equal percentage of the energy consumed by the plants of the corporation under common control.

Line 3.1 through 3.19 On a separate page for each SIC code, enter in column A the total energy consumption data for the current reporting period by energy type for all plants in your corporation during that reporting period. Enter in column B the comparable energy consumption data for 1972. For a plant not in existence in 1972, there will be no consumption reported in column B for such a plant even though the current consumption of that plant will be reported in column A.

Form CS 189-C
Page 1 of___ (colored paper)

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM

This Report is Mandatory Under Public Laws 95-619, 94-163 and 93-275

----SECTION A: GENERAL INFORMATION----

PART 1: IDENTIFICATION AND OTHER INFORMATION

1.1 What is the name and address of your corporation? _____

1.2 Enter corporate Employer Identification Number (EIN) as used for reporting to the Internal Revenue Service. ☐☐☐☐☐☐☐☐☐

1.3 What two-digit SIC codes are covered in this report?

A Energy Efficiency Improvement Data-SIC Codes:_____
B Recovered Materials Data-SIC Codes:_____

1.4 What is the reporting period covered in this report? Calendar year 19 _____.

1.5 Who are the contact persons:

A For Energy Data: Name_____
Title_____
Telephone No._____

B For Recovered Materials Data (if different from A):
Name_____
Title_____
Telephone_____

1.6 Where are reports and supporting information available for review and verification? _____

1.7 Check if this is a revised report ☐

1.8 Check if the name or address of the corporation has changed since the last report ☐

1.9 Check if this report does not include all data for the 2-digit SIC codes indicated (some data being reported through the sponsor of an adequate reporting program). Please explain._____

1.10 Enter the following information aggregated from plant reports:

A. Enter the number of plants included in this report ____

B. Enter number of plants having energy management programs ____

C. Enter number of plants having specific energy efficiency improvement goals ____

1.11 Enter the following information about your corporation:

A. Does your corporation have a specific program emphasizing energy management?

Yes ☐ No ☐

B. Does your corporation have specific energy efficiency improvement goals?

Yes ☐ No ☐

PART 2: CERTIFICATION

I certify that each of the plants of this corporation has filed a report which meets the requirements of Title 10 of the Code of Federal Regulations (C.F.R.) §445.21 and that data on energy efficiency improvement in this report is prepared with data aggregated from the plant reports.

I certify the information provided herein and appended hereto is true, accurate and complete to the best of my knowledge.

Name:_____ Title:_____
Signature:_____ Date:_____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willfully 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 CS-189-C
Page ____of____

CORPORATION _____ SIC_____ Year_____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM

(colored paper)

----SECTION B: ENERGY EFFICIENCY IMPROVEMENT ----

PART 3A: ENERGY CONSUMPTION DATA

For Each Energy Type Below, Enter The Consumption Data Requested.	A Current Reporting Period Consumption (Billion Btus)	B 1972 Consumption (Billion Btus)
3.1 Electricity		
3.2 Natural gas		
3.3 Bituminous coal		
3.4 Anthracite		
3.5 Coke		
3.6 Ethane		
3.7 Propane		
3.8 LPG		
3.9 Natural gasoline		
3.10 Gasoline (including aviation)		
3.11 Special naphtha		
3.12 Kerosene		
3.13 Distillate fuel oil (including diesel)		
3.14 Still gas		
3.15 Petroleum coke		
3.16 Residual fuel oil		
3.17 Crude oil		
3.18 Purchased Steam		
3.19 Other (Specify)		
3.20 TOTAL ENERGY CONSUMPTION		
3.21 Wastes Used As Fuel (Not to be included in above total)		

PART 3B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated in the instructions to this form.

3.22 Explain any significant changes that have occurred in the types of energy used.

3.23 What plans do you have to change to different energy types? Explain.

3.24 What types of wastes are used as fuel and in what quantities?

3.25 List any plans you have to use additional wastes as fuel.

3.26 Provide any other comments desired.

(colored paper)

Form CS 189-C
Page ___of___

Corporation _____ SIC _____ Year_____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM

----SECTION B: ENERGY EFFICIENCY IMPROVEMENT----

PART 4A: EVALUATION OF FACTORS AFFECTING ENERGY USE DURING THE REPORTING PERIOD

Factors affecting energy use	What is the effect of each factor on energy use compared with 1972			What is the change in use compared with 1972?
	If unknown check box below (A)	If negligible check box below (B)	If significant, enter + for increased use or - for decreased use in the box below and answer (D) (C)	Answer in Billions of of Btu's or state "unable to quantify" (D)
4.1 Weather	☐	☐	☐	_____
4.2 Capacity Utilization	☐	☐	☐	_____
4.3 Product Mix	☐	☐	☐	_____
4.4 Product Quality	☐	☐	☐	_____
4.5 Raw Material and Feedstock Changes	☐	☐	☐	_____
4.6 Other Process Related Changes	☐	☐	☐	_____
4.7 Fuel Switching	☐	☐	☐	_____
4.8 Governmental Regulations	☐	☐	☐	_____
4.9 Other_____	☐	☐	☐	_____
4.10 Other_____	☐	☐	☐	_____
4.11 Other_____	☐	☐	☐	_____
4.12 Total			☐	☐

PART 4B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated in the instructions to this form.

4.13 For all factors marked both as having "significant effect" (C) and "unable to quantify" (D), what are your plans to quantify the effects?

4.14 For all factors checked as having an "unknown" effect (A), what are your plans to determine the significance of these factors?

4.15 Does your plant data allow a meaningful assessment to be made of the total effect on corporate energy use of the factors affecting energy consumption? If not, what are your plans to make such an assessment?

4.16 Provide explanations for factors 4.6, 4.9, 4.10, 4.11, if used.

4.17 Explain the method used to complete Part 4A, for information not derived from plant reports.

4.18 Provide any other comments desired.

(colored paper)

Form CS 189-C
Page ___of____

CORPORATION _____ SIC_____ Year_____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM

---- SECTION B: ENERGY EFFICIENCY IMPROVEMENT----

PART 5A: ENERGY EFFICIENCY IMPROVEMENT

5.1 Energy consumption during current reporting period (enter from Worksheet Col. F) ☐ Billions of Btu

5.2 Calculated consumption based on 1972 energy efficiency (enter from Worksheet Col. E) ☐ Billions of Btu

5.3 Energy efficiency improvement relative to 1972

$$\frac{(5.2)-(5.1)}{(5.2)} \times 100$$

☐ %

Optional Calculation

5.4 Adjusted energy efficiency improvement relative to 1972: adjustment made for the effect of factors quantified in Part 4, in order to demonstrate the effect of conservation efforts alone.

$$\frac{5.2-(5.1-\text{line } 4.12)}{(5.2)} \times 100$$

☐ %

PART 5B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated on the instructions to this form.

5.5 What significant energy conservation measures have been adopted in this reporting period and have contributed to the improvement shown in line 5.3?

5.6 Make any other comments on conservation achievements or constraints (e.g., on the technological, economic and institutional factors which constrain further improvements in energy efficiency, and on the impact of Federal policies on energy use). Recommend any policy changes which would encourage improved energy efficiency.

5.7 Provide any other comments desired.

Form CS 189-C
Page ___ of ___

CORPORATION_____ SIC_____ Year____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM

(colored paper)

----SECTION C: RECOVERED MATERIALS UTILIZATION*----

PART 6A: CURRENT USE OF RECOVERED MATERIALS

	Column ____	Column ____	Column ____
6.1 Enter in the columns provided the manufacturing operations performed for the SIC and year indicated above.			
6.2 What recovered materials were used in each operation?			
6.3 What was the unit of production in each operation?			
6.4 What was the amount of production in each operation?			
6.5 How much virgin material was used in each operation?			
6.6 How much prompt industrial scrap was used in each operation?			
6.7 How much obsolete scrap was used in each operation?			

* For use by Corporations identified in SIC Codes 22, 26, 30, and 33.

(colored paper)

Form CS 189-C Corporation_____ SIC____
Year____ Page ___of____

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

CORPORATE REPORTING FORM

---- SECTION C: RECOVERED MATERIALS UTILIZATION* ----

PART 6B: NARRATIVE COMMENTARY ON RECOVERED MATERIALS UTILIZATION

Provide the information requested below on separate sheet(s) as indicated in the instructions to this form.

6.8 Provide any explanatory comments which would assist in interpreting the data in Part 6A.

6.9 Economic and technological factors: provide a narrative description of any technological, economic and institutional factors which affect (encourage or constrain) the increased use of energy-saving recovered materials. Such factors as the availability of materials in the market place, the energy and capital equipment required, and the influence of the price of scrap on reuse should be included.

6.10 Federal policy impacts: discuss the impact of current Federal policy on the use of recovered materials by your corporation. Recommend policy changes which would encourage increased use in a constructive and positive manner.

6.11 Reporting company initiatives: How is your corporation encouraging the separation, collection and beneficiation of scrap by others?

6.12 Provide any other comments desired.

* For use by corporations identified in SIC Codes 22, 26, 30 and 33.

Corporation _____ SIC ____ Year

WORKSHEET FOR PART 5A: CORPORATE ENERGY EFFICIENCY DATA

Col. A	Col. B	Col. C
Plant	Calculated consumption based on 1972 efficiency (Plant Report line 5.2)	Current consumption (Plant Report line 5.1)
Totals		

Enter in line 5.2

Enter in line 5.1
Check with line 3.20 A

Line 3.20 Compute the total energy consumption in billions of Btu's for both Columns A and B.

Line 3.21 Enter here the amount of energy which was derived from the utilization of wastes by the plants in your corporation.

O. PART 3B: NARRATIVE COMMENTARY ON ACTUAL ENERGY CONSUMPTION

This Part requires respondents to comment on the data given in Part 3A. For example, any changes in the pattern of energy used by fuel type (e.g., substitution of oil and gas by coal) must be discussed. In addition, comment on the use of wastes as fuel, with as much quantitative data as available. The reporting form includes four specific questions on these topics which must be answered. Constraints to fuel switching, or plans to implement a fuel switching program, could also be the subject of useful comments entered in this Part (comments on fuel switching related to energy efficiency should be made later on line 4.7 and in the narrative commentary, Part 4B).

Prepare your answers on separate sheets as indicated in instruction J.

P. PART 4A: EVALUATION OF FACTORS AFFECTING ENERGY USE DURING THE REPORTING PERIOD

Many factors affect energy consumption. To determine the true effect of energy conservation efforts, it is necessary to remove the effect of other factors. However, it is recognized that it may be difficult to quantify the effect of many of these other factors. This Part is designed to demonstrate the extent to which the effect of such factors is understood.

Enter the information requested on the form by aggregating any corresponding data from your plant reports, and any other data available at the corporate level, if found more appropriate for your corporation, (explain the source of data other than plants reports in Part 4B).

Note that the change in the effect of all factors is in relation to their effect on energy use in 1972.

Q. PART 4B: NARRATIVE COMMENTARY ON FACTORS AFFECTING ENERGY USE

Provide the information requested on separate sheets as indicated in instruction J. In addition to answers to the three specific questions, make other comments which explain the replies given in this Part, or that reflect progress in understanding the process of evaluating these factors.

R. PART 5A: ENERGY EFFICIENCY IMPROVMENT

Perform energy efficiency improvement calculations for each identified 2-digit industry in which a corporation is reporting. Develop this data on the Worksheet for Part 5A: Corporate Energy Efficiency Data.

Use this worksheet to aggregate plant data. Note that worksheets need not be submitted to the DOE or to a sponsor but must be retained by the identified corporation for verification.

The following example is provided to illustrate the use of this worksheet and demonstrate an energy efficiency improvement calculation.

Energy Efficiency Data:

Col. A	Col. B	Col. C
Plant	Calculated consumption based on 1972 efficiency (Plant Report line 5.2)	Current Consumption (Plant Report line 5.1)
W	1265.0 billion	1220.3
X	2523.0 billion	2316.4
Y	967.6 billion	983.2
Z	484.4 billion	410.7

5240.0	4930.6
Enter in line 5.2	Enter in line 5.1 Check with line 3.20 A

Energy Efficiency Improvement Calculation:

Energy Efficiency Improvement Formula: $\frac{(5.2)-(5.1)}{(5.2)} \times 100 = ___\%$

Example: $\frac{5240.0 - 4930.6}{5240.0} \times 100 = 5.9\%$

Take the entries for the worksheets for corporate energy efficiency data directly from the plant reports as indicated. This procedure automatically limits the corporation's report to the plants that are in operation within the corporation during the reporting period. Enter the totals from columns B and C on lines 5.2 and 5.1 respectively of the corporate report. The entry on line 5.1 must agree with the entry on line 3.20A.

Energy Efficiency Improvement Calculation Enter on line 5.3 the performance improvement, rounded to one decimal place, calculated by the method shown on the form (see example above). In the event that the result is negative, the improvement figure will be preceded by a minus sign.

Optional Calculation of Adjusted Energy Efficiency Improvement. As covered previously in Part 4, it is recognized that it may not yet be possible to quantify many of the factors affecting energy consumption. However it is anticipated that, over time, each plant and thereby the corporation will develop procedures to quantify the effects of all factors other than conservation so that adjusted performance can be calculated and the true results of the conservation effort will be known.

Where valid quantitative data on all factors affecting energy use marked as "significant" (see Part 4A) are available for all plants, calculation of "adjusted" performance is encouraged. When this calculation is made by the method shown on the form, the result may be entered on line 5.4.

S. PART 5B: NARRATIVE COMMENTARY

Provide the information requested on separate sheets as indicated in instruction J.

This part requires comment on the data in Part 5A. It is particularly useful for responding corporations to categorize and list the significant conservation measures that have been adopted by their plants and have contributed to energy efficiency improvement. Any comments on performance relative to corporate goals may also be useful in interpreting the quantitative data in this report.

Finally, identify in the narrative commentary any problem areas constraining further improvements in energy efficiency (such as long lead times for key equipment, inability to finance capital investments in energy-efficient equipment, the impact of Federal policies on energy use, etc.). Recommendations for policy changes are sought which are felt might encourage improved energy efficiency.

INSTRUCTIONS FOR SECTION C

T. Corporations identified in any of SIC codes 22, 26, 30, or 33, which are filing Form CS 189-C, must complete a separate Section C for each of these 2-digit SIC codes in which the corporation is identified. If Section C of plant form CS 189-P was completed by any plant, the information collected will correspond directly with that requested in this Part.

U. PART 6A: CURRENT USE OF RECOVERED MATERIALS

Provide the following information:
Line 6.1. Enter in the columns provided the manufacturing operations performed within the SIC code during the year indicated. If a manufacturing operation uses more than one recovered material, that operation should be listed repeatedly on line 6.1 to correspond to the number of recovered materials used (see line 6.2).

Line 6.2. Identify under the appropriate manufacturing operation the type of recovered material, if any, utilized in the manufacturing operation. In SIC 26, wood waste may be included as a recovered material but must be listed separately. Only recovered material which has the effect of reducing the amount of virgin material required by a manufacturing operation is to be included. As an example, waste rubber used to manufacture carbon black should be included; however, waste paper or rubber which is burned for its energy content should not be included. Only one recovered material should be listed in a column. For example, if paper and wood waste are used in paper production, list paper production in two columns on line 6.1 with paper in one column of line 6.2 and wood waste in another column of line 6.2. Complete lines 6.3 through 6.7 for each combination of lines 6.1 and 6.2.

Line 6.3. For each manufacturing operation identify the physical unit in which production is measured, e.g. tons of output product or pounds of input materials.

Line 6.4. For each manufacturing operation identified on line 6.1 list the amount of production within the United States for the reporting period.

Line 6.5 through 6.7. Are self-explanatory. The quantities should be reported in units which are consistent with the units of production reported on line 6.3.

V. PART 6B: NARRATIVE COMMENTARY ON RECOVERED MATERIALS UTILIZATION

Provide the information requested on separate sheets as indicated in instruction J. This part requires comment on the data given in Part 6A. In addition to answering the specific questions, provide any additional explanatory comments which would assist in interpreting the quantitative data in this Section.

APPENDIX III

DEPARTMENT OF ENERGY
CONSERVATION AND SOLAR APPLICATIONS
OFFICE OF INDUSTRIAL PROGRAMS
WASHINGTON, D.C. 20585

INDUSTRIAL ENERGY CONSERVATION PROGRAM
FOR
ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION

SPONSOR REPORTING FORM CS 189-S AND INSTRUCTIONS

Under the provisions of the Energy Policy and Conservation Act (the Act), as amended by the National Energy Conservation Policy Act, certain corporations in major energy consuming industries are required to report data on energy efficiency improvement and on recovered materials utilization to the Department of Energy (DOE). The regulations governing the identification of corporations required to report and establishing the reporting requirements are contained in Title 10 of the Code of Federal Regulations (C.F.R.), Part 445, entitled "Industrial Energy Conservation Program". These regulations provide for reporting by DOE - approved third party sponsors. The sponsor report must be submitted to DOE on either DOE Form CS 189-S, included in this booklet with instructions, or on a sponsor reporting form supplied by the sponsor to DOE in its submission under 10 C.F.R. § 445.36, accompanied by the certification in Part 2 of Form CS 189-S.

Sponsors are encouraged to use form CS 189-S also to report compatible data from non-identified corporations participating in their voluntary reporting programs. Information from such corporations must be aggregated separately from information submitted by identified corporations, as the instructions to Form CS 189-S provide.

The data reported by identified corporations, non-identified corporations and sponsors will allow DOE to monitor the progress in energy efficiency improvement and the increased use of recovered materials by industry. DOE will, in turn, report that progress to the Congress and to the President as required by the Act.

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GENERAL INSTRUCTIONS

A. PURPOSE OF THIS FORM

Form CS 189-S is designed to collect information from sponsors of adequate reporting programs on improvements in energy efficiency and on the use of recovered materials by participating corporations. The quantitative results obtained from the program are used by DOE to measure changes in energy efficiency and use of recovered materials in certain industries. Narrative portions of the report provide the opportunity to explain and discuss quantitative data as well as to identify barriers to achieving further energy efficiency improvements or greater use of recovered materials.

B. WHO MUST SUBMIT THIS FORM

Pursuant to Sections 374 A (e), 375 (a) and 376 (g) of the Act, the chief executive officer (or officer designated by such officer) of each sponsor of an adequate reporting program is required to report annually as follows:

(1) For each major energy-consuming industry for which the sponsor has an adequate reporting program, on the progress the exempt corporations which participate in the adequate reporting program have made in improving their energy efficiency in that major energy-consuming industry; and

(2) For each of SIC codes 22, 26, 30 and 33 for which the sponsor has an adequate reporting program, on the progress the exempt corporations which participate in the adequate reporting program and which are identified in such SIC code have made to increase their utilization of recovered materials.

This report must be submitted by sponsors to DOE on either DOE Form CS 189-S (included in this booklet) or on a sponsor reporting form, supplied by the sponsor to DOE in its submission under 10 C.F.R. §445.35, accompanied by the certification in Part 2 of Form CS 189-S.

C. WHEN TO SUBMIT THIS FORM

Reports must be received by DOE not later than July 15 each year, and must cover the period January 1 through December 31 of the preceding year.

D. WHERE TO SEND THIS FORM

Sponsors should submit completed forms to:

U.S. Department of Energy
Conservation and Solar Applications
Office of Industrial Programs
Room 5109
20 Massachusetts Avenue, N.W.
Washington, D.C. 20585

Additional copies of the reporting form may be obtained from the above address. Respondents may make duplicates and reports made on such duplicates will be accepted by DOE.

E. DATA RETENTION AND VERIFICATION REQUIREMENTS

All reports submitted by an exempt corporation to a sponsor under 10 C.F.R.§445.22(c)(2) must be retained by the exempt corporation for at least five years from the filing date. Upon request for verification the reports must be made promptly available to DOE by the corporation, and by the sponsor if copies of the reports are retained by the sponsor.

All data, other than reports described in the paragraph above, used in preparing reports submitted to DOE by a sponsor under 10 C.F.R. §445.23 must be retained by the sponsor for at least five years from the filing date and must be made available to DOE promptly upon request for verification.

F. REVISION OF REPORTS

If new information is received, or errors are found in the original report, sponsors must submit a revised form to DOE.

G. CONFIDENTIALITY OF INFORMATION

The handling of information contained in Form CS 189-S will be governed by DOE's Industrial Energy Conservation Program regulations, 10 C.F.R. §445.4.

H. AUTHORITY TO COLLECT

The requirement that sponsors provide this information is made pursuant to Sections 374 A (e), 375 (a) and 376 (g) of the Act; Section 376(b) of the Act; Section 13(b), 5(b)(7) and 5(a)(3) of the Federal Energy Administration Act (15 U.S.C. 772 et. seq.); and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7150).

I. DEFINITIONS

For the purposes of this form:

"Act" - the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619, 92 Stat. 3207).

"Adequate reporting program" - means a reporting program which collects data from one or more corporations and which has been determined by DOE to be "adequate" for the purposes of the program, pursuant to 10 C.F.R.§445.37.

"Btu" - British thermal unit.

"Chief Executive Officer" - within a corporation or a sponsor, the chief executive officer or other individual who is in charge of the corporation or sponsor.

"Commercial quality production" - the manufacture of products suitable for shipment and/or sale.

"Control" - the ability to direct or cause the direction of the management and policies of a corporation. Whether control is present involves a question of fact to be determined from such criteria as degree of ownership (especially of voting shares), contractual arrangements, and other means of influence, such as ability to appoint a majority of a corporations's board of directors, whether by sufficient stock ownership or other means.

"Corporation" - a person as defined in Section 3(2)(B) of the Act (any corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company) and includes any person which controls, is controlled by, or is under common control with such person.

"DOE" - the Department of Energy.

"Energy efficiency" - the amount of energy consumed per unit of production.

"Energy type" - electricity, purchased steam, natural gas, bituminous coal, anthracite, coke, ethane, propane, LPG, natural gasoline, gasoline (including aviation), special naphtha, kerosene, distillate fuel oil (including diesel), still gas, petroleum coke, residual fuel oil, crude oil, and any other material consumed as a fuel in manufacturing.

"Exempt Corporation" - an identified corporation which DOE determines, pursuant to 10 C.F.R.§445.37, is not required to report directly to DOE.

"Feedstock" - petroleum products, natural gas or coal used as a raw material which is processed to become a part of the chemical composition of a manufactured product other than an energy type.

"Identified corporation" - a corporation identified by DOE in accordance with 10 C.F.R.§445.15. A corporation is an identified corporation for the year in which it consumed, in accordance with 10 C.F.R.§445.13, at least one trillion Btu's.

"Major energy consuming industry" - an industry listed in 10 C.F.R. §445.5(a).

"Manufacturing" - the technical or chemical transformation of materials or substances into new products, as described on page 57 of the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Manufacturing operation" - the mechanical or chemical transformation of materials or substances into a product classified within SIC codes 22, 26, 30, or 33; which is measured in a single unit of production. Manufacturing operations include, but are not limited to, the production of iron, steel, aluminum, copper, lead, zinc, wood pulp, paper, spun textile goods, woven textile goods, felt textile goods, non-woven textile goods, tires and tire products, rubger footwear, and industrial rubber products.

"Obsolete scrap" - recovered materials created by the use and subsequent discard of a product. Examples are discarded tires, automobiles, and newspapers. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Plant" - an economic unit of a corporation at a single physical location where manufacturing is performed.

"Product" - an item or grouping of items (separate parts of, or all of a product line) that is the production of a manufacturing corporation that is classified within a major energy-consuming industry.

"Production" - the quantity of a corporation's product output, throughput, or activity.

"Program" - the Industrial Energy Conservation Program of DOE.

"Prompt industrial scrap" - recovered materials generated by an industrial process and used as input to a manufacturing operation other than the industrial process which generated it. An example is metal fabrication stamping waste which is used in manufacturing steel. This includes recovered materials from outside the United States which are used in manufacturing operations in the United States.

"Recovered materials" - any of the following energy-saving recovered materials: aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste.

"SIC" - the Standard Industrial Classification system described in the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Solid waste" - any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities; but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation flows, or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

"Sponsor" - a trade association or other person who operates or intends to operate a reporting program which collects data from one or more corporations.

"United States" - each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"Virgin material" - a substance other than a recovered material used as input to a manufacturing operation, which can be replaced, at least in part, by a recovered material in a manufacturing operation.

"Waste" - any waste, purchased or self-generated used as fuel.

J. AGGREGATION OF CORPORATE REPORTS

Sponsors must aggregate separately the reports of the identified and non-identified corporations participating in their reporting program. In the case of energy consumption data reported in, for example, Part 3A of Form CS 189-S, the figures reported by the sponsor are to be derived directly from corporate reports by summing comparable entries in the corporate reporting form CS 189-C. The aggregation of corporate reports for completing Part 4A is somewhat different, as explained in the detailed instructions for that part, but does also consist of mathematically summing the corporate reponses. The instructions for Section B provide further guidance.

For the aggregation of corporate responses to the narrative commentaries in Parts 3B, 4B, 5B and 6B, the following guidelines are provided.

Sponsors should, where possible, categorize responses and report the total numbers of corporations reporting in each category. For example, this aggregating technique could apply to the responses of several corporations providing lists of energy conservation measures adopted in the reporting period (see line 5.5, Part 5B). A sponsor could choose to list the responses on the basis of "types" of measure (e.g., heat recovery systems, improved maintenance measures, better combustion control, etc.) and thus provide the total number of measures reported by the corporations in each category. The categorization will depend on the nature of the responses received from the corporations, and is likely to be characteristic of the industry concerned. Sponsors are to describe on supplemental sheets to each narrative (instruction K) the methodology and rationale used for aggregation of narrative data. Where no aggregation is deemed possible, the sponsor must report all the responses received from participating corporations, deleting any material identifying the corporate respondent.

Finally, sponsors are encouraged to add their own comments in any part where it is felt that these comments will assist the interpretation of the data reported in Form CS 189-S.

K. HOW TO USE THIS BOOKLET

Remove the perforated report form (colored pages), and the worksheet behind the report form, from this booklet. This will allow you to follow the instructions as you fill out the form.

Provision is made at the top of each page for identifying the number of that page and the total number of pages in the report. Parts 3B, 4B, 5B and 6B require respondents to provide narrative commentary. Submit responses on supplemental sheets, and identify each such sheet with the following heading:

Page _____ of _____ Sponsor _____ SIC _____ Year ___

For identified ☐ or non-identified ☐ corporations

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM
SUPPLEMENTAL SHEET

In addition, identify each line addressed, e.g., Line 3.22.

Form CS 189-S Page 1 of _____ (colored paper)

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

This Report is Mandatory Under Public Laws 95-619, 64-163 and 93-275.

----SECTION A: GENERAL INFORMATION ----

PART 1A: SPONSOR IDENTIFICATION AND OTHER INFORMATION

1.1 What is the name and address of your organization? _____

1.2 What two-digit SIC codes are covered in this report?

A Energy Efficiency Improvement Data SIC Codes: _____

B Recovered Materials Data SIC Codes: _____

1.3 What is the reporting period covered in this report? Calendar year 19_____.

1.4 Who are the contact persons:

A For Energy Data: Name _____
Title _____
Telephone No. _____

B For Recovered Materials Data (if different from A):
Name _____
Title _____
Telephone No. _____

1.5 Where are reports and supporting information available for review and verification? _____

1.6 Check if this is a revised report ☐

1.7 Check if the name or address of your organization has changed since the last report ☐

1.8 Enter the following sponsor information:

A Does your organization have a specific program emphasizing energy management?

SIC Code	Yes	No

B Does your organization have specific energy efficiency improvement goals?

SIC Code	Yes	No

C For each 2-digit SIC code included in this report, enter the following information to the extent known:

SIC Code	Industry your organization represents	Percentage of the industry production represented by the corporations included in this report

Page ____ of ____ Sponsor_____ Year_____

ENERGY EFFICIENCY AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

(colored paper)

---- SECTION A: GENERAL INFORMATION - - -

PART 1B: LISTING OF PARTICIPATING CORPORATIONS AND OTHER INFORMATION

1.9 Enter the following information aggregated from corporate forms:

		SIC Code	Identified	Non-identified
A	Enter number of corporations included in this report			
B	Enter number of corporations having energy management programs			
C	Enter number of corporations having specific energy efficiency improvement goals			

1.10 IDENTIFIED CORPORATIONS. Enter below the required information from reports of identified corporations on which the sponsor report is based. If submissions of energy efficiency data for this report are partial only, explain where the balance of the data is reported. Recovered materials data applies only to corporations identified within SIC codes 22, 26, 30 and 33. If recovered materials data is required from a corporation but not included in this report, explain(on a supplemental sheet if necessary). See instruction M for examples.

SIC Code	Corporation name	EIN	Is the energy efficiency improvement data partial or complete?	Is recovered materials data required?	included in report?

Page ___ of ___ Sponsor_____ Year_____

ENERGY EFFICIENCY AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM (colored paper)

SECTION A, PART 1B CONTINUED

1.11 NON-IDENTIFIED CORPORATIONS. Enter below the required information from reports of non-identified corporations on which the sponsor report is based. If submissions of energy efficiency data for this report are partial only, explain where the balance of the data is reported, if known. Recovered materials data applies only to SIC codes 22, 26, 30 and 33.

SIC code	Corporation name	EIN	Is energy efficiency improvement data included? If yes, is it partial or complete?	Is recovered materials data included in this report?

PART 2: CERTIFICATION

I certify that this report is prepared from reports received from the identified corporations listed in line 1.10 and reports, aggregated separately, received from the non-identified corporations listed in line 1.11, and that the reports from the listed identified corporations meet the requirements of 10 C.F.R. § 445.22(c).

I certify the information provided herein and appended hereto is true, accurate and complete to the best of my knowledge.

Name _____ Title _____
Signature _____ Date _____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willfully 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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SPONSOR_____SIC___Year____

For identified ☐ or non-identified ☐ corporations

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

(colored paper)

----SECTION B: ENERGY EFFICIENCY IMPROVEMENT----

PART 3A: ENERGY CONSUMPTION DATA

For Each Energy Type Below, Enter The Consumption Data Requested	A Current Reporting Period Consumption (Billion Btus)	B 1972 Consumption (Billion Btus)
3.1 Electricity		
3.2 Natural gas		
3.3 Bituminous coal		
3.4 Anthracite		
3.5 Coke		
3.6 Ethane		
3.7 Propane		
3.8 LPG		
3.9 Natural gasoline		
3.10 Gasoline (including aviation)		
3.11 Special naphtha		
3.12 Kerosene		
3.13 Distillate fuel oil (including diesel)		
3.14 Still gas		
3.15 Petroleum coke		
3.16 Residual fuel oil		
3.17 Crude oil		
3.18 Purchased steam		
3.19 Other (specify)		
3.20 TOTAL ENERGY CONSUMPTION		
3.21 Wastes Used As Fuel		

PART 3B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated in the instructions to this form.

3.22 Explain any significant changes that have occurred in the types of energy used by the participating corporations.

3.23 What plans do the participating corporations have to change to different energy types? Explain.

3.24 What types of wastes are used as fuel by the participating corporations and in what quantities?

3.25 List any plans the participating corporations have to use additional wastes as fuel.

3.26 Provide any other comments desired.

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SPONSOR _____ SIC _____ Year _____

For identified ☐ or non-identified ☐ corporations

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

(colored paper)

----SECTION B: ENERGY EFFICIENCY IMPROVEMENT----

PART 4A: EVALUATION OF FACTORS AFFECTING ENERGY USE DURING THE REPORTING PERIOD

Factors Affecting Energy Use	What is the effect of each factor on energy use compared to 1972? For unknown, effect, enter number of corporations having checked box below (A)	For negligible effect, enter number of corporations having checked box below (B)	For significant effect, enter number of corporations having (+) and (-) in the boxes below and answer (D) and (E) (C) +	(C) −	What is the change in use compared with 1972? Answer in billions of Btu's (+) or (-) aggregated from corporate reports (D)	Enter number of corporations "unable to quantify" (E)
4.1 Weather	☐	☐	☐	☐	_____	☐
4.2 Capacity Utilization	☐	☐	☐	☐	_____	☐
4.3 Product Mix	☐	☐	☐	☐	_____	☐
4.4 Product Quality	☐	☐	☐	☐	_____	☐
4.5 Raw Material and Feedstock Changes	☐	☐	☐	☐	_____	☐
4.6 Other Process Related Changes	☐	☐	☐	☐	_____	☐
4.7 Fuel Switching	☐	☐	☐	☐	_____	☐
4.8 Governmental Regulations	☐	☐	☐	☐	_____	☐
4.9 Other_____	☐	☐	☐	☐	_____	☐
4.10 Other_____	☐	☐	☐	☐	_____	☐
4.11 Other_____	☐	☐	☐	☐	_____	☐
4.12 Total			☐	☐	☐	☐

PART 4B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated in the instructions to this form.

4.13 For all factors marked both as having "significant effect" (C) and "unable to quantify" (D), what are your plans and the plans of your participating corporations to quantify the effects?

4.14 For all factors checked as having an "unknown effect" (A), what are your plans and the plans of your participating corporations to determine the significance of these factors?

4.15 Does the data in the corporate reports allow you to make a meaningful assessment for your program of the total effect on energy use of the factors affecting energy consumption? If not, what are your plans to make such an assessment?

4.16 Provide explanations for factors 4.6, 4.9, 4.10, 4.11, if used.

4.17 Explain the method used by corporations to complete Part 4A, for information not derived from their plant reports.

4.18 Provide any other comments desired.

(colored paper)

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Page ____of_____ SPONSOR_____SIC_____Year_____
For identified ☐ or non-identified ☐ corporations

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

---- SECTION B: ENERGY EFFICIENCY IMPROVEMENT ----

PART 5A: ENERGY EFFICIENCY IMPROVEMENT

5.1 Energy consumption during current reporting period (enter from Worksheet (Col. C) ☐ Billions of Btu

5.2 Calculated consumption based on 1972 energy efficiency (enter from Worksheet (Col.B) ☐ Billions of Btu

5.3 Energy efficiency improvement relative to 1972

$$\frac{(5.2)-(5.1)}{(5.2)} \times 100$$

☐ %

Optional Calculation

5.4 Adjusted energy efficiency improvement relative to 1972: adjustment made for the effect of factors quantified in Part 4, in order to demonstrate the effect of conservation efforts alone.

$$\frac{5.2-(5.1-\text{line } 4.12)}{(5.2)} \times 100$$

☐ %

PART 5B: NARRATIVE COMMENTARY

Provide the information requested below on separate sheet(s), as indicated on the instructions to this form.

5.5 What significant energy conservation measures have been adopted in this reporting period and have contributed to the improvement shown in line 5.3?

5.6 Make any other comments on conservation achievements or constraints (e.g., on the technological, economic and institutional factors which constrain further improvements in energy efficiency, and on the impact of Federal policies on energy use). Recommend any policy changes which would encourage improved energy efficiency.

5.7 Provide any other comments desired.

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Page ___ of _____

SPONSOR _____ SIC _____ Year _____

For identified ☐ or non-identified ☐ corporations

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

(colored paper)

----SECTION C: RECOVERED MATERIALS UTILIZATION ----

PART 6A: CURRENT USE OF RECOVERED MATERIALS

	Column_____	Column_____	Column_____
6.1 Enter in the columns provided the manufacturing operations performed for the SIC and year indicated above.			
6.2 What recovered materials were used in each operation?			
6.3 What was the unit of production in each operation?			
6.4 What was the amount of production in each operation?			
6.5 How much virgin material was used in each operation?			
6.6 How much prompt industrial scrap was used in each operation?			
6.7 How much obsolete scrap was used in each operation?			

(colored paper)

Form CS 189-S
Page____of_____

SPONSOR_____SIC_____Year__

For identified ☐ or non-identified ☐ corporations

ENERGY EFFICIENCY IMPROVEMENT AND RECOVERED MATERIALS UTILIZATION REPORT

SPONSOR REPORTING FORM

----SECTION C: RECOVERED MATERIALS UTILIZATION ----

PART 6B: NARRATIVE COMMENTARY ON RECOVERED MATERIALS UTILIZATION

Provide the information requested below on separate sheet(s) as indicated in the instructions to this form. Responses are to be based on corporate reports.

6.8 Do you have any explanatory comments which would assist in interpreting the data in Part 6A?

6.9 Economic and technological factors: provide a narrative description of any technological, economic and institutional factors which constrain the increased use of energy-saving recovered materials. Such factors as the availability of materials in the market-place, the energy and capital equipment required, and the influence of the price of scrap on reuse may be included.

6.10 Federal policy impacts: discuss the impact of current Federal policy on the use of recovered materials by corporations participating in your reporting program. Recommend policy changes which would encourage increased use in a constructive and positive manner.

6.11 Reporting company initiatives: how are your participating corporations and your sponsor organization encouraging the separation, collection and benefication of scrap by others?

6.12 Provide any other comments desired.

Sponsor _____ SIC _____ Year _____

For identified ☐ or non-identified ☐ corporations

WORKSHEET FOR PART 5A: ENERGY EFFICIENCY DATA

Col. A	Col. B	Col. C
Corporations included in the sponsor's program	Calculated consumption based on 1972 efficiency (Corporate Report line 5.2)	Current consumption (Corporate Report line 5.1)
Totals		

Enter in line 5.2

Enter in line 5.1
Check with line 3.20 A

INSTRUCTIONS FOR SECTION A

L. PART 1A: SPONSOR IDENTIFICATION AND OTHER INFORMATION

Submit only one Section A for all SIC codes being reported. Enter information as requested in the form.

M. PART 1B: LISTING OF PARTICIPATING CORPORATIONS AND OTHER INFORMATION

This Part requires information on the corporations which are covered in the sponsors report. The information requested is divided into two basic areas, that pertaining to identified corporations and that pertaining to non-identified corporations participating voluntarily in the sponsors reporting program. If the space provided on the form is not sufficient for the required lists of corporations, provide the information on supplemental sheets (see instruction K).

Line 1.10 includes a listing of identified corporations on which the sponsor report is based. Where submissions of energy efficiency data by identified corporations are not complete for this report, explain where the balance of the data is reported. Recovered materials data applies only to corporations identified in SIC codes 22, 26, 30 and 33. Explain where recovered materials data is reported by an identified corporation if not in this report, on a supplemental sheet if necessary.

Examples of appropriate responses for line 1.10 (identified corporations) are as follows:

SIC Code	Corporation Name	EIN	Is the energy efficiency improvement data partial or complete?	Is recovered materials data required?	Is recovered materials data included in this report?
20	Foods Incorporated	.....	Complete	No	No
33	West Steel Co	.....	Complete	Yes	Yes
	East Steel Co	.....	Complete	Yes	No (reported directly)
	South Steel Co.	.....	Partial, balance through Aluminum Association	Yes	Yes

Line 1.11 includes a listing of non-identified corporations providing data for the sponsors report. Information similar to that reported in line 1.10 is required.

Examples of appropriate responses for line 1.11 are as follows:

SIC Code	Corporation Name	EIN	Is energy efficiency improvement data included? If yes, is it partial or complete?	Is recovered materials data included in this report?
20	Chicken Inc.	---------	Yes, complete	No
20	Bread Co.	---------	Yes, partial (bread baking only, balance not reported)	No
33	North Aluminum Co.	---------	No	Yes
	Excel Brass Inc.	---------	Yes, partial (balance reported through AISI)	Yes

N. PART 2: CERTIFICATION

This part must be completed each time this report is submitted or revised. Enter the name and title of the individual who has signed the certification and the date of the signature in the spaces provided. The individual who signs and certifies this form must be the sponsor's chief executive officer (or officer designated by such officer).

INSTRUCTIONS FOR SECTION B

O. Complete for each 2-digit SIC code covered by the sponsor's reporting program a separate set of Parts 3 through 5 for identified corporations, and another set for non-identified corporations. Enter the sponsors name, SIC code and year on each page of each set of forms, and check the box to indicate that the reported data is for either identified or non-identified corporations.

P. PART 3A: ENERGY CONSUMPTION DATA

Aggregate energy consumption data on separate pages for each 2-digit SIC code, from comparable entries by fuel type on the corporate reports.

Lines 3.1 through 3.19 Enter in column A by energy type (other than waste) the total energy consumption data for the current reporting period. Enter in column B the comparable energy consumption data for 1972. For a corporation not in existence in 1972, or not participating in your reporting program in 1972, there will be no contribution to the consumption reported in column B for such a corporation, even though the current consumption of that corporation will be reported in column A.

Line 3.20 Complete the total energy consumption for both columns A and B.

Line 3.21 Enter the amount of energy which is derived from the utilization of wastes.

Q. PART 3B: NARRATIVE COMMENTARY ON ACTUAL ENERGY CONSUMPTION

This Part requires the sponsor to report the comments of corporations on the data given in Part 3A. For example, any changes in relation to 1972 in the pattern of energy used by fuel type (e.g., substitution of oil and gas by coal) must be discussed. In addition, comment on the use of wastes as fuel, with as much quantitative data as available. The reporting form includes four specific questions on these topics which are to be answered. Constraints to fuel switching, or plans to implement a fuel switching program, could also be the subject of useful comments entered in this Part (comments on fuel switching related to energy efficiency should be made later on line 4.7 and in the narrative commentary, Part 4B). Additional comments by the sponsor are requested.

Prepare your answers on separate sheets as indicated in instruction K (refer also to instruction J, Aggregation of Corporate Reports).

R. PART 4A: EVALUATION OF FACTORS AFFECTING ENERGY USE DURING THE REPORTING PERIOD

Many factors affect energy consumption. To determine the true effect of energy conservation efforts, it is necessary to remove the effect of other factors. However, it is recognized that it may be difficult to quantify the effect of many of these other factors. This Part provides the opportunity to demonstrate the extent to which the effect of such factors is understood.

Enter in the boxes in Part 4A the number of corporations giving the indicated response. Where quantitative data is provided by corporations, sponsors must include the totals in column D, indicating the appropriate sign. The sponsor must also total the number of responses stating "unable to quantify" and report this in column E.

An example of entries in Columns C, D and E for responses from 13 corporations with respect to any one of the factors is as follows:

(C) +	(C) -	(D)	(E)
6	3	+ 2.6	4

Note that the reported change in the effect of all factors is in relation to their effect in 1972.

S. PART 4B: NARRATIVE COMMENTARY ON FACTORS AFFECTING ENERGY USE

Aggregate from corporate reports the information requested, on separate sheets as indicated in instruction K (see also instruction J). In addition to answers to the three specific questions, make other comments which explain the replies given in this Part, or that reflect progress in understanding the process of evaluating these factors. Sponsors are to add any other comments which might be helpful in interpreting the data resulting from the aggregation.

T. PART 5A: ENERGY EFFICIENCY IMPROVEMENT

Perform energy efficiency improvement calculations for each identified 2-digit industry in which a sponsor is reporting. Develop this data on the worksheet for Part 5A: Energy Efficiency Data. Use this worksheet to aggregate corporation data. Note that completed worksheets need not be submitted to DOE but must be retained by the sponsor for verification.

The following example is provided to illustrate the use of this worksheet and demonstrate an energy efficiency improvement calculation.

Energy Efficiency Data:

Col. A	Col. B	Col. C
Corporations included in the sponsors program	Calculated consumption based on 1972 efficiency (Line 5.2 from Corp. report)	Current consumption (Line 5.1 from Corp. report)
Alpha	5240.0 billion	4930.6
Beta	3162.3 billion	2920.5
Gamma	1420.7 billion	1400.3
TOTALS	9823.0	9251.4
	Enter on line 5.2	Enter on line 5.1 Check with line 3.20A

Energy Efficiency Improvement Calculation:

Energy Efficiency Improvement Formula: $\frac{(5.2)-(5.1)}{(5.2)} \times 100 = __\%$

Example: $\frac{9823.0 - 9251.4}{9823.0} \times 100 = 5.8\%$

The entries for the sponsors worksheet are derived directly from the corporate reporting forms. This procedure automatically limits the report to the corporations that are actively participating in the sponsor's program during the reporting period. Enter the totals from columns E and F on lines 5.2 and 5.1 respectively of the sponsors reporting form. The entry on line 5.1 must agree with the entry on line 3.20 A.

Energy Efficiency Improvement Calculation Enter on line 5.3 the performance improvement, rounded to one decimal place, of the aggregate of corporations in your program for each 2-digit SIC code, calculated by the method shown on the form (see example above). In the event the result is negative, the improvement figure will be preceded by a minus sign.

Optional Calculation of Adjusted Energy Efficiency Improvement. As covered previously in Part 4, it is recognized that it may not yet be possible to quantify many of the factors affecting energy consumption. However it is anticipated that, over time each plant, each corporation and each sponsor will develop a procedure to quantify the effects of all factors other than conservation so that adjusted performance can be calculated and the true results of the conservation effort will be known.

Where valid quantitative data on all factors affecting energy use marked as "significant" (see Part 4A) are available for all corporations reporting, calculation of "adjusted" performance is encouraged. When this calculation is made by the method shown on the form, the result may be entered on line 5.4.

U. PART 5B: NARRATIVE COMMENTARY

Provide the information requested on separate sheets as indicated in instruction K (see also instruction J).

This part requires comment on the data in Part 5A. It is particularly useful for sponsors to categorize and list from corporate reports the significant conservation measures that have contributed to energy efficiency improvement. Any comments on performance relative to corporate and sponsore goals may also be useful in interpreting the quantitative data in this report.

Finally, the narrative commentary may also have been used by corporations to identify problem areas constraining further improvement in energy efficiency (such as long lead times for key equipment, inability to finance capital investments in energy-efficient equipment, the impact of Federal policies on energy use, etc.). Recommendations for policy changes were also sought which are felt might encourage improved energy efficiency. Report such information from the corporate reports, and provide sponsor's comments in addition where possible (identified as such in the narrative).

INSTRUCTIONS FOR SECTION C

V. This Section is for the use of sponsors of reporting programs covering corporations in any of SIC codes 22, 26, 30 or 33. Participating identified corporations in such SIC codes must complete Section C of Form CS 189-C (or its equivalent on a corporate reporting form approved by DOE) and the sponsor is to aggregate this information (see also instruction J) and report as requested below. Any data received from participating non-identified corporations is to be aggregated separately.

W. PART 6A: CURRENT USE OF RECOVERED MATERIALS

Provide the following information:

Line 6.1. Enter in the columns provided the manufacturing operations performed within the SIC code during the year indicated. If a manufacturing operation uses more than one recovered material, that operation should be listed repeatedly on line 6.1 to correspond to the number of recovered materials used. (See line 6.2).

Line 6.2. Identify under the appropriate manufacturing operation the type of recovered material, if any, utilized in the manufacturing operation. In SIC 26, wood waste may be included as a recovered material but must be listed separately. Only recovered material which has the effect of reducing the amount of virgin material required by a manufacturing operation is to be included. As an example, waste rubber used to manufacture carbon black should be included; however, waste paper or rubber which is burned for irs energy content should not be included. Only one recovered material should be listed in a column. For example, if paper and wood waste are used in paper production, list paper production in two columns on line 6.1 with paper in one column of line 6.2 and wood waste in another column of line 6.2. Complete lines 6.2 through 6.7 for each combination of lines 6.1 and 6.2.

Line 6.3. For each manufacturing operation identify the physical unit in which production is measured, e.g. tons of output product or pounds of input materials.

Line 6.4. For each manufacturing operation identified on line 6.1 list the amount of production within the United States for the reporting period.

Line 6.5 through 6.7 are self-explanatory. The quantities should be repeated in units which are consistent with the units of production reported on line 6.3.

X. PART 6B: NARRATIVE COMMENTARY ON RECOVERED MATERIALS UTILIZATION

Provide the information requested on separate sheets as indicated in instruction K. This part requires comment on the data given in Part 6A in addition to the specific questions. Provide any explanatory comments which would assist in interpreting the quantitative data in this Section.

[FR Doc. 79-21956 Filed 7-16-79; 8:45 am]
BILLING CODE 6450-01-C

federal register

Tuesday
July 17, 1979

Part IV

Department of Health, Education, and Welfare

Food and Drug Administration

Animal Drugs: Proposed Revocation of Approval of Sansalid (Uredofos) Tablets; Opportunity for Hearing

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 520]

[Docket No. 79N-0180]

Uredofos Tablets; Proposed Revocation of Approval

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Director of the Bureau of Veterinary Medicine is proposing to revoke a regulation that provides for the approval of the drug Sansalid (uredofos) in tablet form. This action is being taken because new information shows that the drug is unsafe and that the drug has not been shown to be safe for its labeled uses. A notice of opportunity for hearing on this proposed withdrawal is published elsewhere in this issue of the **Federal Register.**

DATE: Comments by August 16, 1979.

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

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the Director of the Bureau of Veterinary Medicine is issuing a notice of opportunity for hearing on a proposal to withdraw approval of a new animal drug application (NADA 100-745) for Sansalid Tablets, which contain uredofos as the active drug ingredient. The reason for the proposed withdrawal is that new information, evaluated together with the evidence available at the time of its approval, shows that the drug is unsafe and that the drug has not been shown to be safe for use under the conditions prescribed, recommended, or suggested in the labeling.

Consistent with this action, the Director is hereby proposing to revoke § 520.2645 (21 CFR 520.2645), which currently provides for the use of the product.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), it is proposed that Part 520 be amended by revoking § 520.2645 *Uredofos tablets.*

Interested persons may, on or before August 16, 1979, submit to the Hearing Clerk (HFA-305) Food and Drug Administration, Rm. 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. The comments are to 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 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 5, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-22004 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79N-0179]

Beecham Laboratories: Sansalid (Uredofos) Tablets; Opportunity for Hearing on Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine (the Director) is providing an opportunity for a hearing to Beecham Laboratories, Bristol, TN 37260 (Beecham) on a proposal to withdraw approval of a New Animal Drug Application (NADA) for Sansalid (uredofos) Tablets. The drug is an anthelmintic for use in cats and dogs. The reason for the proposed withdrawal is that new information not available at the time of the drug's approval shows that the drug is unsafe, and that the drug has not been shown to be safe, for such use.

DATES: Written notice of participation requesting a hearing by August 16, 1979; data and analysis on which a request for hearing relies by September 17, 1979.

ADDRESS: Written appearances, data, and analysis to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Published elsewhere in this issue of the Federal Register is a proposal to revoke § 520.2645 *Uredofos tablets* (21 CFR 520.2645), which provides for the use of Sansalid Tablets. This action is based on the following grounds:

1. There have been 683 adverse reactions, including 340 deaths of animals, associated with the use of this drug during the 3 months Sansalid was marketed. Most of these adverse reactions appear to be directly related to the administration of Sansalid under the conditions of use stated on the labeling. The approved use of Sansalid is therefore shown to pose an unacceptable risk to the health of the target animal. Sansalid is unsafe for use under the conditions of use on the basis of which NADA No. 100-745V was approved (section 512(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(A))).

2. The conclusions that must be drawn from the marketing experience are in conflict with the conclusions previously drawn from the safety and clinical studies on which the original NADA No. 100-745V was approved. An evaluation of the adverse reaction data, together with the postapproval data and the underlying data in the NADA, does not identify the cause of the adverse reactions. In fact, Beecham has repeatedly stated that it cannot determine the cause of the reported adverse reactions. Studies have not been designed, much less conducted, that reconcile the different conclusions regarding the safety of Sansalid that must be drawn from the marketing experience and the original studies in the NADA. The adverse reaction reports are new evidence not contained in the application and not available until after the application was approved. That evidence, when evaluated together with other postapproval evidence and the evidence available when the application was approved, shows that Sansalid is not shown to be safe for use under the conditions of use on the basis of which NADA 100-745V was approved (section 512(e)(1)(B) of the act).

Parts I through IV of the following discussion describe the Bureau of Veterinary Medicine's evaluation of the data on Sansalid, and explain the basis for the Bureau's conclusion that approval of the Sansalid NADA should be withdrawn. Part V contains a more detailed exposition of some of the information considered by the Bureau.

I. The Drug

Trade Name and Dosage Form: Sansalid Tablets.

Generic Name: Uredofos.

Conditions of Use: (Amount) 25 milligrams (mg) per pound (55 milligrams per kilogram (mg/kg)) body weight (b.w.).

Indications for Use: (1) *Dogs.* For removal of roundworms (*Toxocara canis, Toxascaris leonina*), hookworms (*Ancylostoma caninum, Uncinaria stenocephela*), whipworms (*Trichuris vulpis*), and tapeworms (*Dipylidium caninum, Taenia pisiformis*).

(2) *Cats.* For removal of roundworms (*Toxocara cati*), hookworms (*Ancylostoma Tubaeforme, A. braziliense*), and tapeworms (*Taenia taeniaformis*).

(See section V.A. of this notice for the limitations on, and the complete labeling for, Sansalid.)

Chemical Name: Diethyl[[[2-[[[[(4-methylphenyl)sulfonyl]-amino]carbonyl]amino]phenyl] amino]thioxomethyl]-phosphoramidate.

Sponsor: Beecham Laboratories, Bristol, TN 37620.

Approved application: NADA 100-745V.

Date of Approval: February 7, 1978.

II. History of the Drug

Affiliated Laboratories Division, Whitmoyer Laboratories, Inc. (Whitmoyer), Horsham, PA 19044 was the original sponsor of the NADA. At that time, Whitmoyer was affiliated with Rohm & Haas, Inc. (Rohm & Haas), Philadelphia, PA. On April 12, 1978, Whitmoyer submitted a supplemental application providing that Beecham Laboratories, Bristol, TN 37620 would be the new sponsor of the NADA, with the Beecham Laboratories' logo to appear on the labeling. This supplemental application was approved in the Federal Register of July 28, 1978 (43 FR 32747), revising § 520.2645. The supplemental application provided for no other changes in the original conditions of approval.

Nationwide distribution began on May 15, 1978. FDA began receiving adverse reaction reports concerning Sansalid on June 13, 1978. Upon its evaluation of the adverse reaction reports received of as July 1978, Beecham issued a stop sale order on July 14, 1978 to its branch warehouses and sent a letter to all veterinarians whose account reflected a purchase of the product. The letter warned that adverse reactions (including deaths) in puppies under 8 weeks of age had been reported. The letter advised against the use of Sansalid in this age group. A revised package insert was included in the letter. On August 1, 1978, returned stocks of Sansalid were reshipped to branch warehouses for distribution. The revised insert stated that the product was contraindicated for puppies 8 weeks of age and under. Due to an increased number of adverse reaction reports, a second stop sale order was issued by Beecham on Augut 11, 1978. Beecham sent a recall letter to all veterinarians having accounts with the firm. On August 14, 1978, Beecham, for the first time, notified the Food and Drug Administration (FDA) of its decision to recall all of the product from the market place voluntarily. FDA was not notified at that time of Beecham's previous July 14, 1978 stop sale order.

On August 17, 1978, FDA requested Beecham, in a telephone conversation, to submit all available information on the toxicity of Sansalid (including any

additional studies) as soon as possible. Beecham was strongly urged not to resume marketing of the drug on the basis of any conclusions it reached regarding the problem until it had secured authorizaton from FDA.

On August 28, 1978, FDA received from Beecham information in response to the August 17 request. The submission included analytical data on the marketed product. These data had been collected to determine the cause of the unexpected toxicity of Sansalid. In this submission, Beecham concluded that, after investigation, (1) it was unable to identify the cause of the reported adverse reactions, and (2) it was unable to isolate any chemical problem with the marketed tablets. On September 1, 1978, FDA recommended in a letter to Beecham that the firm request a voluntary withdrawal of NADA 100–745V or, alternatively, that it make a written commitment not to market the product without FDA concurrence pending publication of a notice of opportunity for hearing proposing to withdraw the NADA. Beecham responded, in a letter dated September 20, 1978, that it did not wish to request a voluntary withdrawal of NADA 100–745V, but that it would not market the product without FDA's concurrence. In a telephone conversation on November 6, 1978, FDA informed Beecham that approximately 50 additional adverse reaction reports, which FDA had reason to believe were in Beecham's possession, had not been submitted to the agency as required by law. In the same telephone conversation, FDA also requested Beecham to submit all of the followup information available on the previously submitted adverse reaction reports.

At a November 15, 1978 conference with FDA, Beecham submitted what was described (by Beecham) as a complete update of all the adverse reaction reports. Beecham also outlined its future research plans regarding its attempt to identify the unexplained toxicity of Sansalid. The proposed research involved the same kind of studies already found in the NADA except for a comparative safety study (6911–01–129) involving the young canine (see section V.D.2. of this notice). Beecham admitted that it would have voluntarily withdrawn the NADA if it had involved a product Beecham had originally developed. Also at the meeting Beecham again admitted that it could not identify the cause of the reported adverse reactions.

III. The Adverse Reactions Demonstrate That Sansalid is Unsafe When Used Under the Approved Conditions of Use

A. *Discussion.* An adverse drug experience includes any adverse reaction, and any lack of effectiveness, detected following drug administration. An adverse reaction is an unexpected or unexpected severe side effect or unintended change in the structure, function, and chemistry of the body, including injury, toxicity and sensitivity reaction, or demonstrated lack of effectiveness associated with the clinical use of the drug. With isolated reports it is difficult to establish whether a particular effect observed following drug administration is actually related to the administered drug. The probability of drug relationship is increased if the observed effect is one that is consistent with the known toxicologic (or pharmacologic) properties of the drug. Additionally, repeated observations of the effect under conditions where the administration of the drug may be the only common factor in all situations, and repeated observations under the same controlled conditions, support the conclusion that the observed effects are drug-related.

In the case of Sansalid, the probability that the drug was responsible for the observed adverse reactions is supported by these facts: (1) Many of the reported effects are consistent with the expected toxic properties of Sansalid (as an organophosphate drug) (see section IV.D. of this notice); (2) numerous observations are available from a wide variety of circumstances in which a common factor is drug administration; (3) controlled studies performed by Beecham after receiving adverse reaction reports reproduced at elevated doses (3x and 5x) the same effects (including death) reported by practitioners using the marketed product in accordance with labeled directions under clinical conditions.

Reports of the adverse effects of Sansalid may continue to be received for some time. The 214 reports of adverse reactions received by FDA as of December 1, 1978 have been reviewed and are the basis for the conclusions in this notice. Evaluation by FDA of these 214 reports reveals that approximately 662 dogs and 21 cats suffered apparently drug-related reactions following Sansalid administration. Most of the adverse reactions closely followed the administration of the product. Nearly 50 percent (340/683) of the adverse reactions reported involved animal fatalities. The information from the currently available adverse reaction reports shows that the use of Sansalid is unsafe to the target animal.

Sansalid is only one among many anthelmintics currently available for routine treatment of commonly recognized (frequently subclinical) infections. The benefit derived from this anthelmintic does not outweigh the demonstrated risk associated with use of the drug.

Furthermore, although the marketing experience recounted in this notice establishes the toxicity of the marketed formulations of Sansalid, this experience alone does not provide a sufficient basis for determining why the product proved to be so unexpectedly toxic. In fact, rather than providing answers, the adverse reaction reports summarized in this notice raise a series of questions regarding the cause of the observed toxicity of Sansalid. The cause cannot be explained and questions cannot be satisfactorily answered on the basis of all the information currently available on Sansalid. The burden of identifying the cause and of answering the questions raised in this notice falls on Beecham, not FDA. That burden will have to be met before the safety of Sansalid can be shown.

B. *Summary of reported adverse reactions.* Based only on the information available before December 1, 1978, regarding Sansalid and on information reported to the agency on other products, Sansalid was responsible for the death of more animals (relative to the period of time it was in use) than any other product ever marketed for animal use in the United States. The death of 340 animals following Sansalid administration during a period of approximately 3 months is extraordinary and clearly unacceptable. The reporting of 683 adverse reactions occurring in that timespan is also extraordinary. A 50-percent mortality rate in such a large number of reported reactions is unprecedented. Table I is a breakdown of the adverse reactions and deaths reported for other canine anthelmintics. The serious threat to animal safety presented by the use of Sansalid as compared to the use of other anthelmintics is graphically demonstrated by Table I.

Table I.—*Summary of Reported Adverse Reactions for Canine Anthelmintics, July 1975 to September 1978*

[Adverse reactions, death]

Anthelmintic	Period					
	July–Sept. 1975	Oct.–Dec. 1975	Jan.–Mar. 1976	Apr.–June 1976	Oct.–1976–Sept. 1977	Oct. 1977–Sept. 1978
Arecoline tetrachlorethylene	0, 0	0, 0	1, 0	1, 0	1, 0	1, 0
Bunamidine	0, 0	0, 0	0, 0	15, 12	5, 5	7, 6
Cythioate	1, 0	0, 0	0, 0	0, 0	1, 0	0, 0
Dichlorophene toluene	0, 0	0, 0	0, 0	0, 0	11, 6	3, 1
Dichlorvos	2, 1	20, 9	7, 5	6, 0	23, 14	23, 10
Diethylcarbamazine	21, 3	15, 3	0, 0	0, 0	8, 2	43, 1
Diethylcarbamazine styrylpyridinium	0, 0	0, 0	0, 0	0, 0	63, 1	2, 1
Disophenol	1, 1	0, 0	0, 0	22, 10	52, 22	0, 0
Dithiazanineiodide	0, 0	0, 0	0, 0	0, 0	3, 0	0, 0
Glycobiarsol	0, 0	0, 0	0, 0	0, 0	1, 0	4, 3
Mebendazole	.....	.....	.....	.....	.....	195, 10
Piperazine	0, 0	3, 3	0, 0	0, 0	2, 2	6, 0
Phthalofyne	1, 1	0, 0	0, 0	2, 2	2, 1	1, 0
Thenium closylate	0, 0	5, 4	6, 5	2, 2	2, 2	15, 8
Thiacetarsamide	2, 0	3, 0	1, 0	4, 0	18, 8	42, 3
Toluene	0, 0	0, 0	0, 0	0, 0	1, 0	0, 0
Trichlorfon atropine	0, 0	0, 0	0, 0	0, 0	3, 0	0, 0

(The rates of the various adverse effects discussed in this notice apply to animals that suffered potentially drug-related reactions following Sansalid administration and that were reported to the sponsor and subsequently to FDA. The rates derived from the information on this population of 683 animals may not be representative of the rates of various adverse reactions (including death) in the entire treated population of animals. It is impossible to calculate such rates because information on the total number of animals treated with the drug is unavailable and because the number of animals that reacted adversely to Sansalid cannot be determined on the basis of the information voluntarily reported to the firm. It is axiomatic that not all adverse drug reactions are identified, much less reported to the manufacturer or FDA.)

Of the dogs reported to have reacted adversely to Sansalid, 70 percent (465) were identified as being less than 3 months of age. An additional 14 percent were identified as "puppies," and 2 percent were identified as being 1 year of age or less. Thus, animals 1 year of age or less constitute 86 percent (572) of the total adverse reactions.

The mortality rate for the animals identified as under 3 months of age was 44 percent; for those identified as puppies, 79 percent; and for those between 3 months of age and 1 year, 46 percent. The mortality rate of the first two groups considered together was 50 percent, and for all animals less than 1 year of age, 50 percent. The mortality rate for animals exclusive of those 3 months of age and younger and "puppies" was 46 percent, and for all animals over 1 year of age, 48 percent. The mortality rate among animals 10 years of age or older was 73 percent.

About 80 percent of the reports recorded the approximate time of the reaction relative to product administration. For "puppies" and animals under 3 months of age, within 8 hours of drug administration, 49 percent reacted and 33 percent died; within 24 hours, 83 percent reacted and 69 percent died. For animals over 3 months of age (and not "puppies"), within 8 hours, 44 percent reacted and 36 percent died; and within 24 hours, 72 percent reacted and 51 percent died.

Of the 662 dogs that suffered apparent drug-related reactions, 27 percent (182) were treated antidotally with atropine. The mortality rate among these animals was 27 percent. The mortality rate among animals not so treated was 58 percent.

Of the 47 adverse reactions reported in dogs between 1 and 9 years of age for which data are available, 27 percent (13) of the animals involved were found heartworm positive. The mortality rate among these animals was 61 percent.

Thirteen adverse reaction reports involving cats have been received and evaluated. These reports involved a total of 21 cats. Thirteen of these cats died, yielding a mortality rate of 61 percent. The reports identified 10 of the 21 cats as under 3 months of age. The mortality rate among these 10 animals was 70 percent.

Before worming, 8 of the 21 cats were described by the reporting veterinarians as severely parasitized, weak or in poor condition. In addition to death, the observations reported in cats include anemia, listlessness, jaundice, vomiting and diarrhea, seizures, weakness, and coma.

A majority of all reports received occurred in the southern and southeastern United States (including Texas and Oklahoma).

In dogs and cats, the most commonly reported adverse effects involved the gastrointestinal system and usually included vomiting and hemorrhagic diarrhea. The vomiting and diarrhea commonly led to dehydration and electrolyte imbalance, and occasionally to aspiration pneumonia.

Approximately 42 of the total reports evaluated included a description of one or more abnormalities related to the nervous system. In many cases, this involved a generalized disturbance described as depression, lethargy, listlessness, weakness, or combinations of these. Ataxia was the next most commonly noted neurological effect. Following in order of decreasing frequency were convulsions, coma, and muscle tremors. Rarely reported were miosis, head tilt, paralysis, posterior weakness, and personality changes.

Over 50 reports (all involving dogs) contained information derived from necropsies of varying degrees of completeness. The gastrointestinal tract was examined grossly and/or histopathologically in 33 reported cases. In 26 of these cases, abnormalities were reported as follows: mild to severe hemorrhage, 8; mild to severe enteritis or gastroenteritis, 9; hemorrhagic enteritis or gastroenteritis, 5; generalized necrosis, 1; large amount of mucus, 1; and intussusception, 2.

It was the opinion of several reporting practitioners that some of these gastrointestinal signs were consistent with corona virus or parvo virus infections. A number of coronaviral infections had been reported (particularly in show animals) around March 1978 ("Infectious Canine Enteritis Caused by a Coronaviral-type Virus," *Journal of the American Veterinary Medical Association*, 173(3):247–248, 1978, and "Infectious Canine Enteritis Caused by a Corona-like Virus," L. E. Carmichael, D.V.M., Ph. D., *Canine Practice*, 5(4):25–27, 1978). However, the only confirmed case of viral infection coincident with Sansalid administration was based on the presence of viral inclusion bodies in the lung of one puppy (which may have been a respiratory virus). Another animal exhibiting similar signs from the same kennel showed no evidence of viral inclusion bodies.

Histopathological examinations were conducted in 20 of the reported necropsies. In 17 of these examinations, abnormalities of the liver were observed. These abnormalities included congestion, vacuolation, inflammatory cell infiltration, pericholangitis and

centrilobular necrosis. Additionally, 16 animals exhibited clincial pathological findings indicative of possible liver dysfunction or necrosis (based on elevated SGPT and alkaline phosphatase values).

Histopathological examination of the pancreas was conducted in five reported cases. Three were determined by those performing the examinations to be abnormal: one was necrotic, one atrophic, and one acutely congested. Pancreatic hemorrhage, congestion, and swelling were also reported on gross observation of several other animals. An additional six animals showed evidence of possible pancreatic abnormalities based on elevated amylase and lipase values.

Histopathological observations of the kidneys of 11 animals were reported. Ten animals showed abnormalities including capsular and glomerular hemorrhage, disorganized and hypercellular glomeruli, "wire-looped" glomeruli, congestion, and focal areas of interstitial inflammation. An additional six animals showed evidence of possible kidney dysfunction based on elevated blood urea nitrogen values.

The lung was microscopically examined in 15 cases. In 13 animals, one or more of the following abnormalities of the lung were observed: atelectasis, bronchopneumonia, edema, and acute congestion.

Refractory or nonregenerative anemia was described in several cases following administration of Sansalid.

In two cases, one involving a dog (boxer) and the other a cat (Himalayan), there was an indication of drug induced abortion.

In one case, untreated puppies nursing a treated bitch died and analysis of the stomach contents and liver of the pups revealed the presence of Sansalid.

Four cholinesterase tests were reported to have been conducted following adverse reactions to Sansalid. Of the four tests, three showed evidence of cholinesterase depression (2 brain, 1 erythrocyte) and one did not. (The latter one was performed on an autolyzed brain sample.)

Thirteen samples (representing five lots) of returned product involved in the reported adverse reactions were analyzed by Whitmoyer according to the laboratory controls described in the NADA. All samples met the NADA specifications. Most of the tablets that were tested by the tablet disintegration procedure disintegrated within 6 minutes. The analytical results for uredofos and the RH–29,903 impurity were found to vary randomly. The Whitmoyer analyst reported that these differences should be attributed to the approved methodology rather than lack of tablet uniformity.

A review and analyis of adverse reaction reports from the European marketing experience of an uncoated uredofos tablet are being conducted, but are not expected to be completed for several months. These adverse reaction reports were recently obtained by FDA inspection of Beecham, Whitmoyer, and Rohm & Haas. Nothing learned from the preliminary stages of review contradicts either the findings discussed in this notice or the bases for withdrawal. In fact, initial findings reflect a marked similarity between the marketing experience in Europe and that in the United States.

IV. An Evaluation of the Data and Studies in the Original NADA in Light of the Reported Adverse Reactions and the Postapproval Studies Shows That Sansalid is not Shown to be Safe When Used Under the Approved Conditions

Introduction

The marketing experience discussed in this notice establishes the toxicity of the marketed formulation of Sansalid. FDA evaluated all of the pre-approval studies in light of the marketing experience (available as of December 1, 1978) and the postapproval studies to determine whether the cause of the observed toxicity of Sansalid could be identified. Only by identification and elimination of the cause could Sansalid be shown to be safe. The agency's evaluation shows that there is insufficient evidence to identify the cause of the observed toxicity of Sansalid and that the underlying data do not, in light of the postmarketing experience, demonstrate that Sansalid is safe. Accordingly, the evaluation not only shows that Sansalid is unsafe but also that Sansalid is not shown to be safe when used under the approved conditions of use. Withdrawal of approval is appropriate under section 512(e)(1) (A) and (B) of the act. Research efforts by Beecham on Sansalid must revert to an early stage of drug development.

The remainder of this section details the agency's evaluation of the existing data on Sansalid, identifies certain deficiencies in those data, and informs Beecham of the kinds of studies likely to be needed in any attempt to identify the cause of the observed toxicity of Sansalid. The studies and laboratory controls submitted in the NADA and the postapproval studies are summarized in section V. of this notice.

A. The unexpected toxicity of the marketed product could have been caused by chemical differences between the marketed tablets and the experimental tablets tested in the pre-approval safety and effectiveness studies.

All of the analytical data currently available on the experimental and marketed tablets (except for the data resulting from the postapproval studies as described in section V.D.1. of this notice) were obtained using Test Method 738–3 (described in section V.C.3. of this notice). Test Method 738–3 consists of a set of different analytical methods that employ nonaqueous acid and base potentiometric titration procedures to measure the uredofos content and RH–29,903 impurity content of a tablet. Test Method 738–5 is a duplicate of Test Method 738–3 except that it applies to the analysis of uredofos raw material instead of Sansalid Tablets. Test Methods 738–3 and 738–5 were re-evaluated by the agency to determine whether the available analytical data on Sansalid can be relied on to verify actual chemical differences or similarities between the experimental and marketed tablets.

Concerning the reliability of Test Methods 738–3 and 738–5, the agency found that:

1. There is a lack of any validation data in the NADA that would define the performance characteristics of Test Methods 738–3 and 738–5 (e.g., the analytical function, accuracy, precision, specificity, and detection limits). The minimal quality control data available in the NADA fail to define the performance characteristics of the Test Methods.

2. As with any acid or base potentiometric titration procedure (the procedure employed in Test Methods 738–3 and 738–5), acidic and basic contaminants in the sample matrix are likely to interfere in the analysis unless the inflection volumes due to the contaminants are completely resolved from the inflection volume due solely to the component of interest. The use of the graphic technique for calculating inflection volumes found in Test Methods 738–3 and 738–5 is likely to result in an inaccurate analysis because there is no assurance that the various inflection volumes in the resulting titration curve are resolved from the inflection volumes being measured.

Accordingly, with regard to Sansalid Tablets and Test Method 738–3, interfering acidic and/or basic contaminants could be present in the inactive raw materials making up the

composition of the tablets. The laboratory controls in the NADA for the various inactive raw materials lack appropriate tests that would insure that such interfering contaminants are not present.

Similarly, with regard to uredofos raw material, Test Method 738–5 was developed without adequate data demonstrating that all of the potential impurities resulting from the uredofos synthesis procedures would not interfere with the potentiometric titration procedures employed.

3. Test Methods 738–3 and 738–5 correct the uredofos analytical results from the primary potentiometric titration procedure for the results of RH–29,903, RH–29,439, and RH–29,593 impurities calculated from other analytical procedures. This procedure is inappropriate because there are significant differences in precision and detection limits among the different analytical procedures. The applied corrections only add to the uncertainty of the final analytical results for uredofos.

Therefore, all of the available analytical results involving Test Methods 738–3 and 738–5 for uredofos and for RH–29,903 content in the active drug substance and drug products (experimental and marketed tablets) are unreliable.

The postapproval chemical studies performed by Beecham on the experimental and marketed tablets for uredofos and impurity content (summarized in section V.D.1. of this notice) are also unreliable. Beecham admitted in its August 28, 1978 submission, that it used unsupported and nonvalidated analytical procedures (different from Test Method 738–3) for assay of the various tablet samples. There are no other analytical data available on the uredofos and RH–29,903 content of the experimental and marketed tablets.

Accordingly, there is insufficient analytical evidence available to establish that a difference between the experimental and marketed tablets in the content of uredofos and RH–29,903 was not a contributing cause of the reported adverse reactions associated with Sansalid.

Test Method 738–3 was also used in the stability studies submitted with the NADA. FDA's evaluation of the data in the manufacturing control section of the NADA revealed that there is a lack of validation data supporting the use of Method 738–3 in stability studies. The NADA contains the statement that: (1) uredofos slowly degrades to RH–29,903; and (2) in acid media, uredofos quickly degrades to o-phenylene diamine and 1-amino-2 (p-toluene sulfonylureido) benzene. The NADA does not contain data addressing the possibility of hydrolysis of the phosphate moiety side chain from the uredofos molecule. The organophosphate compounds resulting from this hydrolysis could increase the toxicity of stored Sansalid Tablets. Information regarding all the possible degradation products is needed before appropriate and valid stability assay methods can be developed. Because this information has not been collected for Sansalid, the suitability of Test Method 738–3 for use in stability studies has not been established, and, consequently, the stability profile of Sansalid Tablets is not known. Therefore, there is insufficient evidence available to establish that drug degradation of the marketed tablet was not in fact a contributing cause of the reported adverse effects of Sansalid.

The true impurity content in the drug product (experimental and marketed tablets) resulting from the various uredofos synthesis procedures (as summarized in section V.C.1. of this notice) is not known because there is a lack of analytical data that would have definitively and chemically characterized the possible impurities that could result from each synthesis procedure used. Whitmoyer developed Test Methods 738–3 and 738–5 without prior knowledge of all the possible impurities that could be present. In fact, Whitmoyer addressed only three of the possible impurities (RH–29,903, RH–29,439, and RH–29,593).

As discussed above, the analytical results for RH–29,903 by Test Method 738–5 are unreliable. A review of the thin layer chromatography procedures used to determine RH–29,439 and RH–29,593 content in uredofos raw material discloses that the methods are semiquantitative at best. The related thin-layer chromatograms submitted by Whitmoyer in the NADA indicate poor analytical technique. Therefore the analytical results for RH–29,439 and RH–29,593 are also unreliable. The amount of RH–29,439 and RH–29,593 in the Sansalid Tablets is not determined by any procedure. The seriousness of these deficiencies is increased by the fact that the pre-approval preliminary toxicity studies (summarized in section V.B.15. of this notice) indicate that the three impurities can be classified as highly toxic substances.

In summary, Beecham has failed to submit analytical evidence available to establish that a toxic impurity present in the marketed tablet (and absent in the experimental tablets) was not a contributing cause of the observed toxicity of the marketed formulation of Sansalid. In light of the marketing experience of Sansalid, the laboratory controls currently in the NADA that relate to the chemical composition of the active drug substance and drug product do not ensure that Sansalid will have the identity, strength, quality, and purity it purports to possess. Beecham must develop and validate new analytical procedures and standards for Sansalid before any meaningful safety and effectiveness studies can be conducted in the future.

B. *The unexpected toxicity of the marketed product could have been caused by physical differences between the coated tablets that were marketed and those that were tested in the pre-approval safety and effectiveness studies.*

The amount of the declared ingredients (active and inactive) of the drug product for certain lots of experimental tablets differed significantly from that declared for the marketed tablets. The other lots of experimental tables were similar in declared composition to the marketed tablets. Information regarding the declared composition of the drug product tested in each pre-approval study is given in section V.B. of this notice.

The composition of the inactive components of a tablet can affect the availability and pharmacodynamics of the drug in the target species. The validity of the postapproval data on the dissolution rates of various experimental and marketed tablets (these data are summarized in section V.D.1. of this notice) is in question because the rates were determined in an alkaline buffer solution and an ultraviolet (U.V.) determinative step was employed that was never intended to be quantitative for uredofos. In fact, there are no validation data available to show that the U.V. method is quantitative for uredofos.

Therefore, there is insufficient evidence available to establish that differences between the experimental tablets and the marketed tablets in the quantitative composition of the inactive components were not a contributing cause of the reported adverse effects of Sansalid.

How a coated tablet is made can also have an important effect on the availability and pharmacodynamics of the drug in the target species. The experimental tablets were manufactured and coated by Whitmoyer in laboratory size lots. The exact details of how the experimental tablets were manufactured

and coated are not available. As shown in section V.C.2. of this notice, Heun/Norwood experienced difficulty in manufacturing and coating three of the six lots of marketed tablets. These three lots were observed to contain tablets having capped core tablets; tablets having six separate and distinct sealing layers of shellac; swollen tablets; and cracked coatings that were filled with povidone, with the lot of tablets then being recoated. All of these tablets passed the approved specifications and tests for the core tablet (tablet disintegration and weight variation) and for the coated tablet (tablet disintegration). These are the only required tests in the NADA that address the physical parameters of the tablet. In light of the marketing experience of Sansalid, the tablet weight variation and tablet disintegration specifications in the NADA would be inadequate to verify a coating difference between the experimental and marketed tablets. Likewise, Beecham's postapproval tablet dissolution rate studies are inadequate to verify a coating difference between the experimental and marketed tablets. There are no other available data that relate to the physical makeup of the tablets.

Therefore, there is insufficient evidence available to determine whether a physical difference between the experimenal and marketed tablets was, in fact, a contributing cause of the reported adverse effects of the drug product that was marketed. Beecham must develop appropriate laboratory controls relating to the coating and physical characteristics of the tablet before any meaningful safety and effectiveness studies can be conducted in the future.

C. *The unexpected toxicity of the marketed Sansalid product could have been caused by differences between the population of animals on which Sansalid was tested and the population of animals treated with Sansalid after its approval.*

1. Young animals appear to be more sensitive than adult animals to the toxic properties of Sansalid. Of those animals reported to have suffered adverse reactions following administration of commercially distributed Sansalid, 84 were less than 3 months of age or were reported as being puppies with no specific age identified. In this age group, the mortality rate was 50 percent (vs. 46 percent for animals over 3 months of age).

No controlled toxicity studies were performed before approval on animals under 3 months of age. However, of the 168 animals under 3 months of age treated in the controlled efficacy studies and clinical trials, 3 died. Although one of the mortalities was dosed at 2x (in a controlled efficacy study) and two of these animals were described as very debilitated before treatment (in clinical trials), the deaths remain unexplained and may be significant in light of Sansalid's marketing experience. Failure to necropsy the latter two animals confounds the situation further.

After the approval of Sansalid, a study was performed by Whitmoyer Laboratories on 7- to 8-week-old beagles (see section V.D.2. of this notice). The effects seen in this study were consistent with the marketing experience and were more severe than those observed in pre-approval toxicity studies that utilized beagles 4 months of age or older.

It appears that young animals are more sensitive than adult animals to the toxic properties of Sansalid. However, the marketing experience also shows that 45 animals older than 3 months of age died after being adminstered Sansalid. Although young animals may be the most appropriate test group in which to investigate the cause of the toxicity of Sansalid, they do not constitute the only sensitive population.

2. The state of health of the tested population may have differed from that of the treated population in a number of ways. This factor is difficult to assess because the specific criteria for patient selection are unknown for the animals involved in the pre-approval studies and for the animals treated during the period the product was marketed. One or more of the parasitic conditions for which the product is recommended may predispose animals to the adverse effects of the drug. All of the controlled safety studies on Sansalid were conducted using nonparasitized animals. Of the animals that died in the pre-approval effectiveness and clinical studies, two of three were described as being debilitated because of a condition for which the product is recommended. Therefore, it is possible that the presence of (or localized effects of) parasites in the gastrointestinal tract affects either the quantity or rate of absorption of Sansalid. It is also possible that the systemic effects of parasitic infections affect the metabolism of the drug in a way that enhances toxicity.

Of the adult dogs reported to react adversely to Sansalid, 27 percent were stated to be heartworm positive and 61 percent of these animals died after treatment (vs. 50 percent overall mortality rate). The studies in the NADA relating to this issue and purporting to establish safety of the drug in heartworm/infected animals do not explain these observations. (See summary of study 8 in section V.B. of this notice.)

Other disease conditions may predispose animals to adverse effects of the drug, but these cannot be discerned based on currently available data.

3. Another possible difference between tested and treated populations is the time of product administration relative to feeding. Time of administration of a drug can affect the quantity and rate of absorption of the drug. A majority of the controlled safety studies were conducted on fasted animals. Many of the animals used in the controlled effectiveness studies were reportedly fasted, but the status of a large number of those animals is unknown. Whether an animal was "fed" or "fasted" in the clinical trials is unknown. "Fed" or "fasted" status cannot be determined in the animals treated with the commercially distributed product. Product labeling indicates that fasting is not necessary. The time of administration of this coated tablet relative to feeding cannot be excluded as a predisposing factor to the observed toxicity of Sansalid.

4. Additionally, the tested population may not have been sufficiently representative of the geographic distribution of animals finally treated with the drug. Specifically, a majority of the adverse reactions were reported in the South and Southeast (including Texas and Oklahoma), but no animals from this region were involved in clinical studies. This finding cannot currently be excluded as a manifestation of a cause of the observed toxicity of Sansalid.

5. Concurrent exposure to substances that increase the adverse effects of Sansalid might explain the observed effects of the marketed product. Except for flea collars, however, potential interactants have not been studied. Furthermore, the results of the flea collar study are now deemed inadequate in light of the postmarketing experience because of the small number of animals tested.

Of particular interest is the interaction potential of the drug diethylcarbamazine. A large portion of the canine population is chronically exposed to diethylcarbamazine. A significant proportion of the canine population in the southeastern United States, where most of the adverse reports originated, could either be heartworm positive or could be receiving prophylactic diethylcarbamazine.

6. Based on available information, no association between sex or breed of treated animals and Sansalid toxicity can be discerned. Information, however, is currently to limited to eliminate these factors altogether, particularly breed, because in dogs most of the controlled toxicity studies were performed in one breed, beagles.

7. It is possible that a portion of the total dog and cat population may be sensitive to cholinesterase-inhibiting drugs due to genetically determined (or otherwise) enzyme deficiencies. Assuming Sansalid exerts at least a significant portion of its toxic effects by a mechanism involving cholinesterase inhibition (which is likely), the tested population of animals may not have adequately represented the hypothetical sensitive portion of the treated population. If such a sensitive population of animals exists and cannot be readily identified so that Sansalid can be contraindicated in those animals, then the product may never be able to be safely marketed.

The adverse effects of Sansalid observed following use of the marketed product and the much greater severity of the adverse effects demonstrated by the marketed product relative to the tested product could be a result of differences in the tested and treated populations of animals. The tested population may have differed significantly in a number of ways from the larger population to which Sansalid was administered after approval. Extreme care must be exercised in any future studies with Sansalid to select a test population and establish appropriate test conditions that adequately characterize the actual conditions under which the marketed product would be used.

D. *The pre-approval studies in the NADA were not sufficiently rigorous to elucidate the signs of toxicity demonstrated by the marketed product.*

The extreme toxic potential of Sansalid became apparent only after it was commercially distributed. Although few signs consistent with "classical" organophosphate toxicity were reported in the preapproval studies, numerous classical signs of organophosphate toxicity were seen following the use of the marketed drug as well as in postapproval study 6911–01–129 (summarized in section V.D.2. of this notice).

The following general discussion of classical organophosphate toxicity and the associated signs and lesions is derived from "Veterinary Pharmacology and Therapeutics," 9th Ed., L. M. Jones et al., Iowa State University Press, 1977, and is representative of such information in other general pharmacology and toxicology texts. The information is intended to serve only as a basis for further discussion of typical or "classical" organophosphate toxicity relative to signs and lesions associated with Sansalid administration. It is not intended to be a definitive treatise on organophosphate toxicity and should not be viewed as such.

Acute toxicosis from organophosphates is thought to be due to an irreversible inhibition of acetylcholinesterase (AChE) wherever acetylcholine (ACh) functions as a transmitter substance (including parasympathetic postganglionic terminals in smooth muscle, in cardiac muscle and glands, in all autonomic ganglia and in cholinergic synapses within the central nervous system (CNS)). Several days or weeks may be required to recover from a sublethal dose of an organophosphate. Organophosphates are believed to interact with esterases other than the AChE of neuroeffector junctions and synapses although the role of various serum and liver esterases in the pathogenesis of acute organophosphate toxicosis remains to be determined.

Other effects of organophosphates may relate to toxicosis. For example, these chemicals can inhibit a large number of enzymes other than esterase, and they can also cause release of adrenal steroids and catecholamine.

The classical description of organophosphate poisoning generally includes such clinical signs as miosis, excessive salivation, gastrointestinal hypermotility, defecation, muscle fasciculations, bronchoconstriction, increased bronchial secretions, ataxia, and paralysis.

It is generally acknowledged that there are no lesions that are pathognomonic for organophosphate toxicity and that lesions may not be present at all in animals that die from acute organophosphate poisoning. However, animals that take several hours to die may exhibit pulmonary edema and congestion, cyanosis, agonal hemorrhages on the heart, hemorrhage in other organs or in skeletal muscle, congestion and edema in various organs including the brain, and, possibly, patches of necrosis in skeletal muscle.

Delayed neurotoxicity (paralytic effects) and myopathy (necrosis of skeletal muscle) are other forms of organophosphate toxicity that have been noted in the literature.

Approximately 25 percent of the animals reported to react adversely to Sansalid demonstrated most of the classical clinical signs of acute organophosphate toxicity noted above (see section III.B.). A similar percentage of the reacting animals displayed some of the signs associated with the classical syndrome.

Similarly, a majority of the animals on which necropsies were performed demonstrated lesions (particularly of the gastrointestinal tract and lungs) that are consistent with classical findings.

The remaining animals that reacted adversely displayed only a few of the signs noted above or displayed signs and lesions not consistent with the general descriptions of organophosphate toxicity. These animals may have reacted or succumbed to Sansalid as a result of the primary mechanism of action described above for organophosphates and simply not have displayed typical signs and/or lesions associated with that mechanism of action. It is possible, however, that a number of these animals reacted adversely to Sansalid due to an entirely different mechanism of action of the drug. Uredofos is not a simple organophosphate; it is of complex molecular structure and may have several mechanisms of toxicity depending, for instance, on its metabolic fate in individual animals.

For example, after the abnormal effects on the gastrointestinal system, by far the most commonly reported abnormal findings on necropsy involve the liver. The same is true for those cases in which clinical pathology tests were performed. Of the 20 adverse reaction reports received involving histopathological examination, 17 (85 percent) showed evidence of hepatic pathology, including congestion, vacuolation, inflammatory cell infiltration, centrilobular necrosis, and pericholangitis. The latter two conditions were also observed in the controlled toxicity studies appearing in the NADA, but were sporadic or mild and were discounted on that basis. Cholecystitis was also reported in several toxicity studies with the drug.

Although the actual significance of the observed liver pathology cannot be determined at this time, the possibility exists that uredofos (or a metabolite) may have a direct toxic effect on the liver that in some way contributes to the observed lethality of Sansalid. This effect may or may not be related to the fact that the drug is an organophosphate.

Similar, but less dramatic, are necropsy findings indicating lesions of the kidney and pancreas. The numbers of animals involved in each instance are not large, because necropsy reports are available for only 20 animals. However,

the majority of the animals (for which observations of kidney and pancreas are available) displayed evidence of pathology of those organs.

Several reports of nonresponsive anemia following drug administration indicate that any future studies on the drug should involve close examination of the hematopoietic system, including histopathological examination of bone marrow.

Animal muscular weakness, prostration and/or paralysis following Sansalid administration were reported. These may be reversible when due to enzyme inhibition or irreversible when due to demyelination of peripheral and spinal neurons. Existing information neither demonstrates nor precludes a connection between Sansalid and delayed neurotoxicity.

As the conflicting conclusions regarding safety from the pre-approval data and postapproval experience demonstrate, the controlled toxicity studies alone were not predictive of marketed product safety. This can occur where the studies are designed to exclude a number of variables that may affect the toxicity of the drug in practice. Accordingly, for drugs known to possess acute toxic potential, such as we now know Sansalid possesses, controlled toxicity studies should be designed to allow for a detailed analysis of the toxic effects of the drug, including a scientifically valid estimation of the margin of safety of the drug (at least under the conditions imposed by the study). Also for drugs like Sansalid, a dose-response relationship should be determined for all dose-related undesirable effects. Additionally, studies on organophosphate drugs should be conducted and data should be analyzed in a manner that permits prediction of the rates of adverse effects in a population of animals treated at the recommended therapeutic dose. This type of design and analysis will facilitate the determination of a benefit-to-risk ratio.

The conclusion is inescapable that the toxic effects of Sansalid were not sufficiently elucidated in the NADA. The acute toxicity syndrome that would have been expected to be related to the cholinesterase-inhibiting properties of Sansalid was not adequately characterized and quantified. Similarly, the agency concludes that those signs of toxicity (such as pancreatitis, hepatic necrosis, cholecystitis, pericholangitis, lymphadenitis, glomerulonephritis, and thyroid hyperplasia) not so readily attributable to cholinesterase inhibition that were seen in pre-approval studies have not, based on what has been shown by the postapproval drug experience, been adequately investigated.

E. *The demonstrated toxicity of Sansalid cannot be explained on the basis of currently available toxicological data and data regarding absorption, metabolism, and mechanism of action.*

Animal variability in the absorption of Sansalid may, in part, account for the observed toxic effects of the marketed product relative to the product tested in the NADA. The time of administration relative to meals has already been mentioned as one possible contributing factor, as have concurrent gastrointestinal disease (including the indicated use for the product) and the observed variation in the makeup of the tablets due to the manufacturing procedures.

Very little is known about the metabolism of Sansalid and uredofos. The only metabolism study conducted is preliminary in nature and indicates approximately 20 percent urinary excretion of radiolabeled material. No analysis of either urine or feces was conducted to determine whether radiolabeled material was associated with parent compound or metabolite(s). The conclusion on the part of Whitmoyer that the 20 percent excreted in the urine is all of the drug that is absorbed is unwarranted because some may be absorbed and excreted in the bile either as parent or metabolite(s). Observations related to the liver and gallbladder of both tested and treated animals tends to support the possibility of biliary excretion.

Information derived from the reported adverse reactions indicates that the parent compound is excreted in the milk of treated bitches to such an extent that nursing pups may be fatally affected. All metabolites discussed in the NADA are theoretical. None has been verified by analysis and the toxicity of a number of the hypothetical metabolites in the dog and cat is unknown.

Although there is insufficient information currently available to determine the mechanism(s) by which Sansalid achieves its toxic effects, cholinesterase inhibition must be assumed to play a major role based on the molecular structure of uredofos and the nature of many of the adverse effects. However, a number of toxic effects not generally associated with cholinesterase inhibition were reported following use of Sansalid, particularly the effects related to the liver. When the drug's toxic effects are considered relative to the complexity of the drug and the lack of information concerning metabolites, it must be concluded that the toxic effects may be caused by several different, possibly interrelated, mechanisms. Accordingly, neither the controlled toxicity studies conducted to date nor the scant data relating to the absorption, metabolism, or mechanism of action of Sansalid can explain the cause of the adverse effects associated with the product.

F. *The approved labeling for Sansalid is not currently supported by adequate data.*

In addition to the issues already raised, a number of statements appearing on product labeling are no longer justified in light of the marketing experience with the drug.

For example, in the product's labeling, the conclusion that "* * * the remaining 80% of the drug is not absorbed" is not supportable (see section IV.C.3. of this notice). Likewise, label representations regarding the "minimum lethal dose" of the drug are inappropriate. Section V.B.3. of this notice (described as a preliminary study) serves as the primary basis for delineation of the acute toxic syndrome and the only basis for the canine "minimum lethal dose" noted in the package insert. The study is inadequate for either of these purposes. The encouragement given in the labeling to compare this "minimum lethal dose" (1500 mg/kg b.w.) to the recommended dose (55 mg/kg b.w.) for a "favorable therapeutic-toxicity ratio" implies a degree of safety not consistent with existing data.

The phrase "minimum lethal dose" is, in itself, ambiguous and always potentially misleading in the absence of detailed information concerning the conditions under which it was determined. It is not a statistically derived value and cannot be used to make predictions on the general population to be treated at the recommended dose. Its use is discouraged in favor of the more meaningful "LD_1."

The list of clinical signs of toxicity at high doses is misleading because it fails to include death as a significant observed effect.

All statements regarding the observed clinical pathology values and gross pathological and histopathological changes are now suspect and require reaffirmation. Also, statements to the effect that the drug will not kill microfilaria or adults of *Dirofilaria immitis* and "will not adversely affect clinical heartworm disease" are no longer considered adequately supported by data (see section IV.C.2. of this notice).

Statements regarding the minimum recommended age of treated animals (now 10 days for cats and 8 weeks for dogs) are unsubstantiated. The statements to the effect that "pretreatment fasting is not required" require re-evaluation.

There is a lack of emphasis placed on, and substance to, the antidotal information in product labeling, e.g., "the veterinarian should consider treatment with atropine."

Information obtained from veterinarians who used the product and observed adverse effects indicates that when Beecham was contacted and asked about appropriate antidotal or supportive treatment, the responses were varied and frequently did not include atropine. Glucose and fluids appear to have been the most common recommendatons made by Beecham.

Although not directly related to the cause of toxicity of Sansalid, elucidation of appropriate antidotal and supportive treatment during drug development and placement of that information on the package labeling may have prevented some of the loss of life associated with this product. The mortality rate among adversely reacting animals antidotally treated with atropine was less than half the rate in animals not so treated. Antidotal information (or lack thereof) appearing on the label is, therefore, unacceptable.

In summary, the approved labeling for Sansalid is not supported by adequate data.

V. Detailed Description of Post-Approval Studies and Toxicity and Manufacturing Data Submitted in the Sansalid NADA

A. Approved Labeling For Sansalid—Package Insert.

SANSALID—uredofos

Broad Spectrum Anthelmintic for Dogs and Cats

Description

An anthelmintic product in coated tablet formulation to be administered orally for removal of intestinal parasites in dogs and cats.

Active Ingredients: Uredofos. Chemical Name, diethyl-[[[2-[[[[[4-methylphenyl]-sulfonyl] amino] carbonyl] amino] phenyl]-amino] thioxomethyl] phosphoramidate.

Indications

Canine—Recommended for removal of roundworms (*Toxocara canis, Toxascaris leonina*); hookworms (*Ancylostoma caninum, Unicinaria stenocephala*); whipworms (*Trichuris vulpis*); and tapeworms (*Dipylidium caninum, Taenia pisiformis*).

Feline—Recommended for removal of roundworms (*Toxocara cati*); hookworms (*Ancylostoma tubaeforme, Ancylostoma braziliense*) and tapeworms (*Taenia taeniaformis*).

Action

Anthelmintic action of uredofos is rapid, occurring within a few hours after oral administration of Sansalid Tablets. Roundworms will usually be passed in stool intact; tapeworm proglottids may in some cases pass intact, but are usually degenerated. Tapeworm scolices are removed from the intestinal wall. Controlled critical studies in artificially and naturally infected dogs and cats confirm the efficacy of Sansalid. Data is summarized in the following tables.

Efficacy in Dogs.—Single Oral Dose: 50 mg/kg body weight.

[Percent reduction]

Ascarids	Hookworms	Whipworms	Tapeworms
92.7	97.1	98.5*	100

* Two doses at 24 hour interval. In studies repeating the dose of 50 mg/kg of body weight at approximately 24 hours the average percent efficacy improved to 98.5% versus 56.3% for a single oral dose.

Efficacy in Cats.—Single Oral Dose: 50 mg/kg body weight.

[Percent reduction]

Ascarids	Hookworms	Tapeworms
95.0	97.4	90.4

Clinical field trials also confirmed the excellent efficacious activity of Sansalid.

The active ingredient, uredofos, is only partially absorbed by the intestinal tract. Approximately 20% of an oral dosage is excreted in urine. The remaining 80% is not absorbed. About 98% of a total dose is excreted in 48 hours. The exact mode of vermicidal action against helminths has not been determined.

Toxicology

The acute oral LD_{50} for uredofos in rats is 102 mg/kg of body weight. The minimum lethal dose for the dog is estimated to be about 1500 mg/kg of body weight. The minimum toxic dose for cats is estimated at 1800 mg/kg of body weight. The recommended therapeutic dose for dogs and cats is 55 mg/kg of body weight, therefore, a favorable therapeutic toxicity ratio is apparent for this drug.

Clinical signs of toxicity in dogs from high doses, i.e., 1500 mg/kg of body weight are diarrhea, emesis, bloody stool, muscular tremors and impaired motor reflex. In cats, high dose of 2800 mg/kg caused depression, anorexia and emesis. When non-lethal toxic doses of uredofos are administered both dogs and cats rapidly recover from clinical signs within 12 to 24 hours without antidotal therapy.

Safety studies on Sansalid were conducted in dogs at recommended therapeutic doses and doses of 3 times and 5 times recommended dose. Dogs were treated weekly for 4 weeks and one group daily for 5 days at therapeutic doses. In another study dogs were treated twice within a 24 hour period at therapeutic dose and 3 times and 5 times recommended dose. At 5 times dose level most dogs developed loose-watery stools and some vomited. At 3 times dose level most dogs had a soft stool and a few dogs a loose, watery stool. At therapeutic dose some dogs developed soft stools, but incidence of loose-watery stools and emesis was much less. At all dose levels the condition was transient and dogs recovered in 12 to 24 hours. Hematological, biochemical and urinalysis values remained within normal limits for almost all dogs in all groups. No changes observed were considered drug related.

Another study in dogs was designed to measure effect of uredofos on erythrocyte cholinesterase and determine occurrence of clinical signs of organophosphate toxicity. In dogs treated at recommended therapeutic dose erythrocyte cholinesterase levels were reduced to about 37% of normal at 8 hours post-treatment. These returned to 65% to 70% of normal at 48 hours post-treatment and were near normal pre-treatment levels at 16 days post-treatment. Erythrocyte cholinesterase depression appeared to be dose-related with slightly greater depression in higher dose groups. However, all treatment groups had similar recovery rates. Physical examinations of all animals revealed no clinical signs indicating organophosphate toxicity due to uredofos beyond clinical signs of watery stools and emesis previously mentioned. Gross pathology and histopathological examinations revealed no lesions considered drug-related.

Studies in pregnant females (canine) demonstrated uredofos is not teratogenic; will not produce anomalies in fetuses or cause abortion. Studies in males (canine) have demonstrated uredofos will not adversely affect spermatogenesis. Studies conducted in dogs having serious and chronic clinical signs of heartworm infection (*Dirofilaria immitis*) have shown Sansalid will not kill microfilaria or adult heartworms

and will not adversely affect clinical heartworm disease.

Safety studies were conducted in young adult cats at recommended therapeutic dose and 3 times and 5 times recommended dose. Study included one group treated weekly for 4 weeks at recommended dose. No clinical signs were observed indicating adverse effect of drug at levels used in study. Hematological, biochemical and urinalysis values remained within normal limits for all dose levels. No gross pathology or histopathological lesions observed were attributable to drug.

Studies in pregnant queens (feline) demonstrated uredofos is not teratogenic and will not cause anomalies in fetuses or cause abortion. No adverse histological lesions could be found on examination of testes and epididymis of proven male cats treated with Sansalid.

In summary uredofos was found to have a very wide margin of safety in dogs and cats when evaluated at recommended therapeutic dose of 55 mg/kg of body weight and doses 3 times and 5 times recommended dose.

The active ingredient, uredofos, is fairly stable, decomposing only slightly when held at 37° C for 372 days. When held at 50° C, compound remains stable for about 90 days, then decomposes. Sansalid Tablets tested at 37° C, 4° C and room temperature for 18 months in polystyrene bottles have demonstrated good stability.

No special storage requirements are necessary, however, excessive heat should be avoided.

Directions for Use—Do Not Exceed Recommended Dosage

Sansalid is recommended for use at the following dosage schedule. For roundworms, hookworms and tapeworms in dogs or cats administer single oral dose of 25 mg/lb (55 mg/kg) of body weight. Pre-treatment fasting is not required.

For maximum efficacy in removing whipworms from dogs administer a single oral dose of 25 mg/lb (55 mg/kg) of body weight and repeat treatment in approximately 24 hours. Fasting prior to either treatment is not required. Due to significant depression of erythrocyte cholinesterase levels following treatment with Sansalid Tablets, it is recommended that dogs being treated for whipworm infestation be kept under observation for 12 hours following the second dose.

Since the drug is not active against migrating tissue phase, larvae, a second treatment two to three weeks after the first may be advisable.

Sansalid should not be administered to cats or puppies under 10 days of age or under 1 lb. of body weight.

Dogs or cats should be treated with whole tablets or combination of tablets to obtain nearest active ingredient dosage recommended for the weight of the animal.

Occasionally an animal may show signs of emesis within 1 to 2 hours post-treatment. Do not retreat immediately since product effectiveness may not be altered. It is recommended those individuals not showing negative fecal egg counts within 3 to 4 days be retreated.

Contraindications

Do not administer other anthelmintics concurrently with Sansalid Tablets.

Do not administer to animals showing signs of mechanical blockage of intestinal tract or infectious disease.

Do not use Sansalid with or within a few days of exposure to or treatment with cholinesterase inhibiting drugs. Cholinesterase inhibition has been demonstrated following oral administration of Sansalid Tablets. However, clinical signs of organophosphate toxicity other than loose stools and occasional emesis previously reported above have not been observed following treatment with Sansalid.

If accidental poisoning occurs with Sansalid and clinical signs of cholinesterase inhibition are evident, the veterinarian should consider treatment with atropine.

Sansalid is not recommended for use in animals other than dogs or cats.

How Supplied

Sansalid is supplied in color coded, coated tablets as follows:

Body weight treated	Color code	Mg active drug per tablet	Tablets per bottle
1 lb	Orange	25.0	250
2.5 lbs	Green	62.5	100
5 lbs	Red	125.0	100
10 lbs	Blue	250.0	100
20 lbs	Yellow	500.0	100

WARNING: Keep Out of Reach of Children.
CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

FOR VETERINARY USE ONLY

B. *Summary of the safety and efficacy data that was the basis of the NADA approval.*

Based on the marketing history of the product, the adverse reactions reported following its use and the findings relating to manufacturing methods, all data submitted to the NADA 100–745 as proof that Sansalid was safe and effective under proposed conditions of use were reevaluated in light of the marketing experience and postapproval studies in an attempt to identify the causes of the observed toxicity. A summary of the studies in the NADA follows:

1. *Acute Toxicity Study—Rodents (Rohm & Haas).* Animals used were albino rats. The test substance was uredofos suspended in 1 percent methyl cellulose which was administered by stomach tube. Two protocols were followed:

a. Two animals per group, groups dosed at 4, 16, 65, 258, 1027 mg/kg.

No animals died at levels of 4, 16, 65 mg/kg, and all died at levels of 258 and 1027 mg/kg.

b. Ten animals per group, groups dosed (in mg/kg) and percent mortality with results as follows:

Dose	41	52	65	82	103	130	164
Mortality	0	0	10	30	50	80	90

The LD_{50} was calculated to be between 89 and 116 mg/kg (103 mg/kg).

2. *Dermal, Ophthalmic and Inhalation Study—Rabbits (Whitmoyer).* The inhalation portion of the study demonstrated inflammation of the lungs, pneumonitis, brochiolitis and tracheitis.

3. *Acute Toxicity Study—Canine (Rohm & Haas).* Described as a preliminary study to determine the LD_{50} in dogs, the study involved the administration of uredofos in gelatin capsules to four dogs, one each dosed at 500, 1000, 1500, and 2000 mg/kg; both animals treated at 1500 and 2000 mg/kg died.

Death occurred within 36 hours of treatment; all animals exhibited signs of gastrointestinal pathology including hemorrhage, hyperemia, hemorrhagic inflammation, and ulceration of the mucosa. Neurological signs were described as muscle tremors, severe nervous, distrubances, impaired rear motor areas, and depressed respiration.

Animals were fasted prior to drug administration. The age of the animals used in the study is unknown.

4. *Acute Toxicity Study Part (I)—Canine (Whitmoyer).* The study involved 20 beagles, 4 months of age divided equally into a control and 4 treated groups. Treated groups were administered 100 mg/kg, 300 mg/kg, 500 mg/kg as a single oral dose and 100 mg/kg given weekly for 4 weeks. Animals were fasted prior to treatment with what is described as 115 mg and 225 mg tablets. The declared amount of ingredients (active and inactive) in the experimental tablets used in this study

is different from the declared amount of ingredients in the Sansalid Tablets that were later marketed. At 300 and 500 mg/kg, vomiting and diarrhea were reported. Loose stools were reported following weekly dosing at 100 mg/kg.

All animals, including controls, developed increased bromsulphalein (BSP) and blood urea nitrogen (BUN) values and cystitis. On necropsy of animals in the high dose and repeat dose groups lymphadenitis and cholecystitis were described as possibly drug-related effects. Thyroid hyperplasia was described as definitely related to the drug. Gastrointestinal and lung tissues were not routinely examined.

5. *Subacute Toxicity Study Part (II)—Canine (Whitmoyer).* The study involved 12 beagles, 4 months of age administered experimental tablets similar in declared composition to the experimental tablets used in study 4 above. Animals were divided into three treated groups, administered respectively 25 mg/kg once, 50 mg/kg once, and 25 mg/kg once weekly for 4 weeks. All animals were fasted prior to treatment and necropsied after 30 days.

Body weight, water intake, food intake, and urine output were periodically recorded and daily observations were made for adverse effects.

Nonfasted glucose levels were reportedly normal. Urine output increased over the course of the study as did water intake. Urinalysis showed increased crystals at the end of 4 weeks. The BSP increased from the first to the fourth weeks.

At necropsy, signs of cholecystitis, proliferative glomerulonephritis, focal granulomatous hepatitis, lymphoid hyderplasia, and thymic hyperplasia and hemorrhage were seen in one or more dogs but were not considered significant at the time. Lung tissue from one dog in the high dose group and one dog in the repeated dose group was examined and revealed bronchitis and interstitial pneumonitis. This finding is consistent with parasitic migration through the lungs, but no corroboration of ascarid infection in these dogs could be obtained from the information submitted. The gastrointestinal (GI) tract was not examined. Specific gross post-mortem observations were not submitted.

6. *Acute Toxicity Study—Feline (Whitmoyer).* The study involved 24 cats, 6 to 8 months of age, divided into 5 equal groups consisting of a control, and 4 groups administered 55 mg/kg, 165 mg/kg (3x), 275 mg/kg (5x) as a single oral dose, and 55 mg/kg weekly for 4 weeks. It is not reported whether animals were fasted or not. The experimental tablets used in this study were similar in declared composition to the experimental tablets used in study 4 above.

Daily observations were recorded for "animal manner" and feces. Animals were weighed weekly and blood samples were obtained by cardiac puncture for analysis of blood glucose, SGPT, SGOT, and hematology. A urinalysis was performed weekly and a BSP test was performed pretreatment and at 4 weeks post-treatment.

No abnormalities of behavior were noted; only absence of stool and "injury" (reportedly due to cardiac puncture) was noted. The procedure used for repeated cardiac puncture was not described. It is not clear from the submitted information whether animals were anesthetized during the procedure. Although blood glucose was slightly lower for the control groups, all were within the normal range. BSP approximately doubled for all groups; this may be related to the procedures for cardiac puncture noted earlier. No drug related lesions were reported at necropsy, but the gastrointestinal tract and lung were not specifically reported to be examined. One surviving animal described as "injured" was not necropsied with the other animals. Daily observations of animals for signs of toxicity were recorded in a manner making analysis difficult.

7. *Acute Toxicity Study (6911-01-059)—Canine (Whitmoyer).* Fourteen adult beagles (ages not given) were used in the study. Twelve of these animals were divided into three groups dosed twice on consecutive days at 55 mg/kg (1x), 165 mg/kg (3x), and 275 mg/kg (5x). The declared composition of the experimental tablets used in this study was similar to the declared composition of the Sansalid Tablets that were later marketed. Two of the animals in each group had a flea collar affixed at the time of the first treatment with Sansalid. One animal with a flea collar was maintained as a "control" and another with a flea collar was administered Task (dichlorvos) at slightly over the recommended dose. Animals were observed daily for toxic effects, and weighed weekly. Hematology, urinalysis, SGOT and SGPT were run periodically. Only the highest dose group was necropsied (two of which wore flea collars) 28 days after treatment.

Soft, flat stools and periodic vomiting were reported at the highest dose levels. SGOT increased in all groups during the course of the study and then declined to normal. Urine pH increased and glucose and protein were sporadically reported with no apparent relation to dose.

Four animals were necropsied. All exhibited focal necrosis of the liver associated with lymphoid infiltration, and thyroid hyperplasia of follicular epithelial cells. The two animals were wearing flea collars had hyaline degeneration of myofibrils and overt myorrhexis. Individual animals exhibited lymphoid hyperplasia, pericholangitis, and cholecystitis. Only one gastrointestinal specimen was submitted for histopathological analysis. This sample exhibited signs of chronic duodenitis.

No control animals or lower level treatment groups were necropsied for comparative purposes.

8. *Heartworm Evaluation Studies—Canine (Ulrich, Bailey, and Roberson).* Twenty-five dogs were studied, 6 by Dr. Ulrich in Illinois, 10 by Dr. Bailey in Florida, and 9 by Dr. Roberson in Georgia. In the first two studies, heartworm-positive dogs were treated with 3× or 5× the recommended therapeutic dose of Sansalid once and in the latter at the therapeutic dose of ½× daily for 2 to 3 days. The formulation of drug used is unknown. Animals were observed for 3 to 7 days following treatment and then necropsied.

Dr. Ulrich concluded: "These observations on a few animals cannot serve as a basis for recommending the use of Sansalid as an anthelmintic for intestinal parasites in obvious cases of canine heartworm infection but they do indicate the drug may be safe if inadvertently used in dogs having heartworm infection."

Dr. Bailey concluded: "Sansalid was safe to use as an intestinal anthelmintic in dogs with canine heartworm infections."

Dr. Roberson noted that "no dyspnea or other evidence of respiratory complications were observed following administration of the drug."

No deaths followed drug administration. Animals were necropsied with emphasis on determining effects on adult heartworms; effects on microfilaria were not thoroughly investigated.

9. *Reproductive Study—Canine (Dorsey).* Eighteen beagles were used in the study. Animals were divided into three equal groups treated twice at the recommended dose as follows: 7 and 14 days after mating, 21 and 28 days after mating, and 49 and 56 days after mating. Half of each group whelped and mother and offspring were observed for eight weeks. Half were ovariohysterectomized 60 days post

breeding and the fetuses necropsied. All fetuses were weighed, measured, sexed, and examined externally and internally by gross dissection. Six whelped pups were radiographed and compared to four control pups of the same age and breed.

No adverse effects were reported. The same animal, BZ74, was reported in one place as "died" and in another as "normal."

The experimental tablets used in this study were similar in declared composition to the experimental tablets used in study (4) above.

10. *Acute Toxicity Study (6911-01-110)—Feline (Whitmoyer).* Sixteen cats, ages 6 to 12 months, were used in the study. All were reportedly not exposed to organophosphates for at least 60 days prior to treatment and none was fasted prior to treatment.

The experimental tablets used in this study were known to be formulated from uredofos supplied by Ethyl Corp. and to have the same declared composition as the marketed tablets.

Animals were divided into four equal groups: a control and three groups treated with 300 mg/kg, 900 mg/kg, and 1800 mg/kg, respectively. All animals were observed daily for 3 days post-treatment for food and water intake, and urine and fecal output, and were physically examined for temperature, heart rate and character, respiratory rate and character, and neurological signs. All animals were necropsied.

The only signs reported post-treatment were respiratory in nature, including rales in one animal dosed at 300 mg/kg, cough and dyspnea in one animal dosed at 900 mg/kg, and dyspnea in one animal dosed at 1800 mg/kg. Only the latter animal was examined histopathologically and showed evidence of pulmonary atelectasis and peribronchial inflammation. The same animal showed signs of liver damage described as moderate acute centrilobular congestion that could be secondary to a pulmonary or cardiac insufficeincy. None of the results was interpreted by the firm to be drug related.

11. *Acute Toxicity Study (6911-01-062)—Canine (Whitmoyer).* This study was designed to compare the cholinesterase levels of untreated control dogs, those administered Sansalid at 5x the recommended dose, and those administered Task (dichlorros) at 3x the recommended dose. The declared composition of the experimental tablets used in this study was similar to the declared composition of the tablets that were later marketed. Animals were reportedly normal following treatment. The method for cholinesterase determination proved faulty and the study was considered invalid by Whitmoyer.

12. *Acute Toxicity Study (6911-01-109)—Canine (Whitmoyer).* The study involved 32 beagles, ages 3 to 5 months. The lot numbers of the tablets used were identified in the study and known to be the same as those used in study (10) above.

Animals were divided into the following groups for study:

Group	Number of animals	Procedure performed
I	6	Control.
II	6	Sansalid 55 mg/kg (1×).
III	5	Sansalid 165 mg/kg (3×).
IV	6	Sansalid 275 mg/kg (5×).
V	4	Sansalid 55 mg/kg daily for 5 days.
VI	4	Task 35 mg/kg daily for 5 days.

Two animals were sacrificed at 48 hours and four at 16 days post-treatment in groups I–IV and all at 16 days in groups V and VI. Physical exams were performed and acetylcholinesterase values were determined periodically. Dogs were not fasted prior to treatment.

In general, necropsy indicated the highest number of deviations from normal histopathology in the control group at 47, contrasted with 39, 34, 37, 31, and 26, respectively, for the tested groups.

Red blood count (RBC) cholinesterase levels were determined using the Michel method both at Whitmoyer and by Dr. Kruckenberg at Kansas State University. Some discrepancies in values were noted and it was concluded by Whitmoyer that greater confidence should be placed in Dr. Kruckenberg's results.

The results show that when Task was administered for 5 days at slightly more than the recommended dose and Sansalid was administered for the same period at the recommended dose, Sansalid caused a greater cholinesterase depression. The cholinesterase depression associated with Sansalid administration appeared dose related, with the maximum depression occurring 4 to 8 hours post-treatment.

Clinical signs associated with cholinesterase depression were not reported.

13. *Reproduction Study—Feline (Dorner).* Twenty-four pregnant females and nine males (described as "study sires and additional breeding cats") were used in the study. The declared composition of the experimental tablets used in this study was similar to the declared composition of the Sansalid Tablets that were later marketed. No information is available regarding whether animals were fed or fasted prior to treatment. The females were divided equally into four groups, a control and three groups treated at 110 mg/kg between 14 and 30 days, 31 and 45 days, and 46 and 55 days, respectively. Three cats in each group were permitted to kit normally and three were to be ovariohysterectomized at 60 days post-breeding (4 of 9 treated animals delivered before this could be accomplished; ovariohysterectomies were performed on the remainder).

Fetal abnormalities were high in all groups: 10.34, 14.7, and 8.82 percent, respectively, for the treated groups and 15.38 percent for the control group.

Males were divided equally into a control group and two groups treated at 55 mg/kg and 110 mg/kg. All males were castrated three days post-treatment and the testicles examined. Three animals were determined to have sexually immature testes. These animals were replaced by three other cats. No abnormalities were reported.

14. *Toxicity of Metabolities of Sansalid (Rohm & Haas).* A metabolism study using radiolabeled drug (of unknown formulation) conducted by Rohm & Haas led to the conclusion that 20 percent of the drug was excreted in the urine (14 of this 20 percent in the first 24 hours and 3 percent more in 48 hours). The remainder was reportedly excreted in the feces. This study invalidated an initial conclusion by the firm that no drug would be absorbed. In the summary of this study, it was assumed that all of the radiolabeled material detected in the feces was associated with unabsorbed and unmetabolized Sansalid. This conclusion was not verified by analysis.

One possible metabolite discussed in the NADA is p-toluene sulfonamide, which could account for the thyroid effects noted following Sansalid administration. Another is sulfanoyl benzoic acid, which is the diuretic "Dirnate" and might explain some of the effects on water consumption and urine output observed post-treatment.

All of the metabolites discussed are theoretical and not verified by analysis.

A total of 115 dogs (mostly beagles) and 73 cats were used in these controlled toxicity studies.

15. *Preliminary Toxicity Studies on Potential Contaminants of the Formulated Product (Rohm & Haas).* Acute toxicity studies on three of the potential contaminants of Sansalid were conducted in rodents. The three substances were identified by Rohm & Haas as RH–29,903, RH–29,439, and RH–29,593. Rh–29,903 is apparently not only a synthetic precursor of uredofos but

also a degradation product. Testing the RH–29,903 at three concentrations in fasted albino rats gave an oral LD_{50} of about 47 mg/kg b.w. The signs of toxicity were diarrhea, convulsions, lethargy, and death. Testing this substance at three concentrations in nonfasted albino mice gave an oral LD_{50} of less than 50 mg/kg b.w. The signs of toxicity were piloerection, lethargy, general debilitation, and death.

RH–29,439 is apparently a byproduct of the basic synthesis of uredofos. Testing this substance at three concentrations in fasted albino rats gave an oral LD_{50} of less than 50 mg/kg b.w. The signs of toxicity were convulsions, prostration, diuresis, dyspnea, and death.

RH–29,593 is also an apparent byproduct of the basic synthesis of uredofos. Testing at three concentrations in fasted albino rats gave an oral LD_{50} of about 38 mg/kg b.w. The signs of toxicity were severe tremors, bypersensitivity to external stimuli, salivation, and death within 24 hours. Testing at four concentrations in nonfasted albino mice gave an oral LD_{50} less than 13 mg/kg b.w. The signs of toxicity were convulsions and death. All mice died and, except at the lowest concentration, all mice died within 5 to 30 minutes.

From the results of the toxicity studies, RH–29,903, RH–29,439, RH–29,593 chemical substances would be classified as highly toxic substances according to the classification scheme by H. C. Hodge and J. H. Sterner, *American Industrial Hygiene Association Quarterly*, 10:93 (1949). Although the existence of other contaiminants is possible, only the three contaminants were identified and studied.

16. *Controlled efficacy studies.* Although not performed to assess the safety of Sansalid, the controlled efficacy studies are relevant to the issue of safety because the drug was tested at the approved therapeutic dose of 55 mg/kg and at ½ and 2 times this level. The animal acted as its own control in most of these studies. Some studies involved natural infection and others were experimentally induced.

In general, the animals were not randomly chosen for the studies but were selected based on general good health (exclusive of parasite infection in studies of natural infection). Some researchers recorded side effects; others did not. In many cases, the age of treated animals was not recorded. However, many of the treated animals appear to have been adults. Twenty-four animals under 8 weeks of age were identified in the studies. One of these animals treated at twice the recommended dose died.

Most of the animals were reportedly fasted over night prior to treatment, but one large group was not designated as either fed or fasted.

A total of 327 dogs and 165 cats were used in the studies. The declared amount of ingredients (active and inactive) in the experimental tablets used in this study is different from the declared amount of ingredients in the Sansalid Tablets that were later marketed.

17. *Clinical trials.* Twenty veterinarians participated in the clinical studies of Sansalid. Most of the veterinarians (65 percent) were located in the Midwest (St. Louis, Chicago, Detroit). Two investigators were located in California and three in the Pennsylvania-New Jersey area. There were no investigators in the South or Southwest and none in the Northwest or Northeast.

The number of dogs (328) appeared to be randomly divided among breeds and between sexes.

The total number of cats (35) consisted mostly of domestic short hairs with 5 Siamese, 1 Himalayan, and 3 mixed. The declared amount of ingredients (active and inactive) in the experimental tablets used in this study is different from the declared amount of ingredients in the Sansalid Tablets that were later marketed.

There was a wide variation in the number of adverse reactions reported by participating veterinarians (65 of treated animals to none). In general, the reactions included vomiting and loose stool or diarrhea. Two deaths were reported in these trials following drug administration and appear to have been drug related. No other satisfactory explanation regarding the cause of death was offered and no autopsies were performed in these cases.

There was a great deal of information not included on individual case report forms that might have helped to elucidate the toxicity of Sansalid. Whether animals were fed or fasted prior to drug administration is largely unknown. It is not known what steps were taken to endure the reporting of adverse effects. The design of individual case reports did not reveal as much information as possible concerning the toxic effects of Sansalid administration.

C. Summary of the Manufacturing Controls for Sansalid; Those Approved and Those Actually Performed

1. *Uredofos material.* According to information in NADA 100–745V, Ethyl Corp. was to manufacture the production lots of uredofos material using the synthesis procedures and laboratory control methods submitted in the NADA. In fact, Ethyl Corp., around January 1976, synthesized production lot no. WA9B2 (a blend of run nos. 1 and 2 of uredofos material); and around March 1977, Milliken Chemical Co. (with March Chemical Co. performing the drying and pulverizing steps) synthesized another batch of uredofos material. The latter lot was later divided up into lots numbered 77–1–D1, 77–1–D2, and 77–1–D3. All four lots met the specifications in the NADA (see section V.C.3. below) and were later used in the formulation of the marketed tablets. Neither Milliken nor March Chemical Companies is mentioned in the NADA. Except for minor differences, it appears that Ethyl Corp. and Milliken Chemical Co. carried out the same procedures.

The experimental tablets used in the pre-approval safety and clinical studies were formulated from two separate blends of laboratory bench lots of uredofos material that was synthesized by Rohm & Haas.

Rohm & Haas R&D lot no. 77 (total of 5.0 kg) was a blend of nine laboratory bench lots synthesized and purified by procedures different from the procedures approved in the NADA for Ethyl Corp. In the case of the laboratory bench lots blended to make R&D lot no. 77, the intermediate reaction product was isolated (this was not done in the Ethyl Corp. procedure) and sometimes purified. Also, purification of the final material of five of the individual laboratory bench lots did not involve a change in pH (as done in the Ethyl Corp. procedure).

Rohm & Haas R&D lot no. 203 (total of 7.3 kg) was a complex blend of 19 laboratory bench lots, some of which were previously blended for purification before final blending. Overall, two different synthesis procedures (intermediate reaction material was not isolated) and four different final purification procedures were involved in the synthesis of these various laboratory bench lots and intermediate blends of material. All these procedures differed significantly from those used in the production of R&D lot no. 77 and again differed from the procedures approved in the NADA for Ethyl Corp. Only the theoretical reaction steps of the various synthesis procedures were the same.

2. *Sansalid Tablets.* According to information in the NADA, Heun/Norwood, St. Louis, MO 63141, was responsible for the manufacturing, packaging, and labeling of production lots of Sansalid Tablets. The finished

product is a tablet. The NADA provides for a sequence of coating steps resulting in a sealing coat, sub-coat, glossing coat, smoothing coat, color coat, and polishing coat being placed on a starch granulated core tablet. The complete details of the coating process were not submitted to the NADA. The specifications in the NADA on the physical parameters of the tablet concern only tablet disintegration and weight variation of the core tablet and tablet disintegration of the coated tablet.

Between July and December 1977, portions of the four production lots of uredofos raw material were sent to Heun/Norwood for tablet formulation, packaging, and labeling of Sansalid Tablets. A total of six lots of tablets (one lot for each of four different tablet sizes and two lots of a fifth tablet size) were manufactured. Each lot was packaged under Beecham Laboratories' labeling, along with a seventh lot consisting of a combination pack (one bottle of each tablet size).

In manufacturing these production lots of tablets, Heun/Norwood had difficulty in producing three out of the six lots. In one lot of released tablets, Heun/Norwood reworked the starch granulation to compress the granulation into core tablets. The resulting coated tablets were not free of breaks and the tablets were observed to have swelled. In another lot of released tablets, the tablets began to crack open during the coating process. The cracks were filled with providone and the sequence of coating steps was, in general, repeated twice. The resulting coated tablets were not free from breaks and a slight thinning of the color at the tablet edges was observed. In another lot of released tablets, the starch granulation process was repeated three times on the same material to compress the granulation into core tablets. Some capping of the resulting core tablets was observed. This core tablet was coated by an entirely different sequence of coating steps, resulting in coated tablets having six separate and distinct sealing layers of shellac.

Whitmoyer manufactured the various size experimental tablets used in the pre-approval safety and clinical studies from Rohn & Haas R&D lot nos. 77 and 203. With the information currently available, it is not known exactly how the experimental tablets were manufactured and coated. Two different formulations were used in manufacturing the experimental tablets. One experimental formulation was similar in composition (A) to the marketed tablet. The other experimental formulation was different in composition (B) from the marketed tablet. Both experimental formulations were used in the various safety and clincial studies found in the NADA. See section V.B. of this notice for the specific tablets used in each pre-approval study. The experimental tablets formulated with composition (B) used Rohn & Haas R&D not no. 77 material. The experimental tablets formulated with composition (A) used Rohn & Haas R&D lot no. 203.

3. *Approved laboratory controls.* The laboratory controls approved in the NADA for uredofos raw material (Test Method 738–5) and for Sansalid Tablets (Test Method 738–3) consist of the same combination of potentiometric titrations and thin layer chromatographic (TLC) procedures. These procedures utilize a direct, potentiometric, nonaqueous base titration that, when applicable, is corrected for the results of RH–29,903, RH–29,439, and RH–29,593 impurities previously determined by separate methods. The nonaqueous basic titration procedure gives two inflection volumes that are calculated graphically. If the two inflection volumes are equal or if the first inflection volume is larger than the second, then the analytical results are corrected for the amounts of RH–29,903, RH–29,439, and RH–29,593 impurities previously found. If the second inflection volume is larger than the first, then the analytical results are corrected for the amount of RH–29,439 and RH–29,593 previously found.

The amounts of RH–29,903 impurity and monosodium salt of uredofos are determined by a direct potentiometric nonaqueous acid titration procedure. The NADA stated that each substance has a different inflection point. The amount of RH–29,439 impurity is determined by a separate TLC procedure. The amount of RH–29,593 impurity is determined by a second TLC procedure. Both procedures compare sample and standard spot sizes for semiquantitation. The disodium salt of uredofos is not measured in the TLC procedures.

The same set of analytical procedures was used for release of Rohm & Haas R&D lot nos. 77 and 203 uredofos material and for all the experimental tablets used in the pre-approval studies, as well as for release of the production lots of uredofos material and the production lots of marketed tablets.

The NADA specifications for uredofos raw material allow a limited amount of the monosodium salt of uredofos, RH–29,903, RH–29,439, and RH–29,593 impurities to be present. The NADA specifications for Sansalid Tablets allow a limited amount of RH–29,903 impurity at the time of release and more at the end of the expiration period. The tablets are not analyzed for their RH–29,439 and RH–29,593 contents.

D. *Summary of Postapproval Studies.* After the recall of the product, Beecham was requested by FDA on August 17, 1978, to submit all information available on the toxicity of Sansalid (including and additional studies). On August 28, 1978, FDA received the additional studies conducted to identify the cause of the adverse reactions.

1. *Chemical studies.* Beecham's August 28, 1978 submission contained information on 20 tablets of lot 5839 assayed by an HPLC method for content uniformity. No gross discrepancies among the tablets were found, yet it was stated that the reliability of the HPLC method had not been validated.

Beecham determined the impurities profile of the pre-approval experimental tablets, reserve sample of markefed tablets and returned tablets by a different unsupported HPLC method. No discrepancies among the tablets were noted; however, the firm stated that the method was not adequate as a regulatory method.

Beecham also determined the tablet dissolution curves for samples of the pre-approval experimental tablets, reserve samples of marketed tablets, and samples of one lot of tablets recently manufactured by the sponsor. Three of the marketed lots of tablets gave a lower rate of dissolution than the other tablets tested. Beecham stated that the significance of such differences must be assessed with the knowledge that tablet dissolution test is not ordinarily performed in an alkaline buffer and the U.V. determinative step was not intended to be quantitative for uredofos. No validation data for the procedure used were submitted. Therefore the validity of the tablet dissolution procedure used by Beecham is questionable.

2. *Comparative Safety Study (6911–01–129)—Young Canine (Whitmoyer).*

This study, as submitted, was complete except for the histopathology reports. Two test materials were used in this study: material (A)—62.5 mg (experimental) tablets previously used in some of the pre-approval studies; and material (B)—62.5 mg (marketed) tablets. The two groups of tablets were separately ground and mixed in 1 percent aqueous methylcellulose for oral administration (stomach tube). The two materials were assayed by the NADA laboratory controls and were found to have about the same uredofos and RH-29,903 contents.

The study involved 41 beagles 7 to 8 weeks of age divided into 6 test groups of 6 animals each dosed once at 1x, 3x, and 5x for material (A) and 1x, 3x, and 5x for material (B). Five animals were administered only 1 percent aqueous methylcellulose solution.

The animals were weighed, examined, and had their temperatures taken 24 hours before and 8, 24, and 48 hours, 5 and 7 days post-treatment. The examinations included behavior, reflexes, pupil size, mouth and throat secretions, and respiration (covering the elements of a classical organophosphate response). Clinical pathology tests were performed at 24 hours pretreatment and at 8 and 48 hours, and 7 days post-treatment and included RBC cholinesterase determinations.

Two deaths occurred in the study, both at the 5x therapeutic dose using test material (A). One occurred at between 24 and 48 hours post-treatment and was preceded by a temperature of 86° F. The pretreatment temperature of the animals had been 102.3° F. The other death occurred on day five following treatment and was preceded by weight loss, slightly decreased temperature, labored respiration, and tarry blood in the stool.

At 5x the therapeutic dose, four dogs showed weight loss, lethargy, weakness, and in one case an "abnormal righting reflex."

At both 3x and 5x, occasional elevations of the BUN, LDH, SGPT, and SGOT and sporadic decreases of potassium and alkaline phosphatase were observed.

The histopathological results are not yet available. Review of the gross necropsy observations and clinical pathology data on 36 treated and 5 control animals revealed several findings that substantiate the experience derived from the commercially distributed product. The signs associated with Sansalid administration in this study include bloody stool, respiratory difficulty, vomiting, weight loss, increased liver weight (in the higher dose groups), and marked cholinesterase depression.

Beecham offered no explanation for the two deaths occurring in the group given 5x the therapeutic dose.

VI. Conclusion

On the basis of all the available information the Director is proposing to withdraw approval of NADA 100–745V for Sansalid Tablets which contain uredofos as the active ingredient, on the grounds that:

1. Marketing experience demonstrates that Sansalid is unsafe for use under the conditions of use upon the basis of which NADA 100–745V was approved (under section 512(e)(1)(A) of the act).

2. New evidence not contained in the application and not available until after the application was approved, evaluated together with the evidence available when the application was approved, shows that Sansalid is not shown to be safe for use under the conditions of use upon the basis of which NADA 100–745V was approved (under section 512(e)(1)(B) of the act).

Therefore, notice is given to Beecham Laboratories, sponsor of NADA 100–745V for Sansalid (uredofos) Tablets, and to all other interested persons, that the Director proposes to issue an order under section 512(e) of the act withdrawing approval of the application on the grounds previously given in this notice.

In accordance with the provisions of section 512 of the act, and the regulation promulgated thereunder (21 CFR Part 514), Beecham Laboratories is hereby given an opportunity for hearing to show why the approval of NADA 100–745 should not be withdrawn and § 520.2645 of the regulations revoked in accordance with this proposed withdrawal of approval. At the same time, Beecham is afforded an opportunity to raise, for administrative determination, all issues related to the legal status of Sansalid Tablets. If Beecham elects to avail itself of an opportunity for a hearing, it must file, with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, by August 16, 1979, a written appearance (1) requesting such a hearing; (2) giving the reasons by approval of the NADA should not be withdrawn; and (3) providing a well-organized and full factual analysis of the data that Beecham intends to submit in support of its opposition to the Director's proposal. Such analysis shall include all protocols and underlying raw data and shall be submitted in accordance with the requirements of § 314.200 (c)(2) and (d) (21 CFR 314.200(c)(2) and (d)), which are hereby made applicable to this notice by reference.

The failure of the holder of an approval or any other person to file timely written appearance and request for hearing as required by § 514.200 (21 CFR 514.200) constitutes an election not to avail itself of the opportunity for a hearing concerning the action proposed with respect to such drug products and a waiver of any intentions concerning legal status of any such drug products. A holder of an approval may submit a written request to waive an opportunity for a hearing. In either circumstance, the Director shall summarily enter a final order withdrawing approval of the subject application. The product may not be lawfully marketed thereafter.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If a hearing is requested and justified by any holder's response to this notice of opportunity for hearing, the issues shall be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued. If it clearly appears from the data submitted and from the reasons in factual analysis in the request for the hearing that there are no genuine and substantial issues of fact that preclude the withdrawal of the approval of the drug and revocation or amendments of the underlying regulation, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request the hearing, making finding and conclusions, denying a hearing, and immediately revoking or amending the applicable regulations without further opportunity for objection or hearing.

Four copies of all submissions pursuant to this notice are to be filed with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Requests for hearing must be submitted by August 16, 1979, and data and analysis on which a request for hearing relies must be submitted by September 17, 1979. Except for data and information prohibited form public disclosure pursuant to section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, all such submissions may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Published elsewhere is this of the **Federal Register** is a proposal to revoke § 520.2645, which provides the basis on which uredofos was approved.

This notice is issued under the Federal Food, Drug and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)) and the Animal Drug Admendments of 1968 (Sec. 108(b), 82 Stat. 353), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: July 5, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79–22006 Filed 7–16–79; 8:45 am]

BILLING CODE 4110–03–M

federal register

Tuesday,
July 17, 1979

Part V

Department of Energy

Bonneville Power Administration

Revised Proposed Wholesale Power Rates and Oppportunities for Public Review and Comment

DEPARTMENT OF ENERGY

Bonneville Power Administration

Revised Proposed Wholesale Power Rates and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA or Bonneville), Department of Energy.

ACTION: Notice of Revised Proposed Wholesale Power Rates and Opportunities for Public Review and Comment.

SUMMARY: The BPA Administrator published an initial wholesale power rate proposal in the **Federal Register** on August 25, 1978 43 FR 38356. Following the announcement, BPA held both Public Information and Public Comment Forums to give the public opportunities to review the proposal and comment on it. The Administrator has now developed a revised wholesale power rate proposal which reflects consideration of the comments received. BPA is holding seven public meetings on its revised proposal to explain changes incorporated in the revised proposal, present general findings of the supporting analyses, answer questions, and receive oral and written comments. Interested parties may also send written comments on the revised proposal to BPA until August 16, 1979. Following the public comment period, the Administrator will modify this revised wholesale power rate proposal to the extent he deems appropriate, considering the comments received. On or about September 14, 1979, the Administrator will transmit his final wholesale power rate proposal to the Assistant Secretary for Resource Applications for interim approval and for transmittal to the Federal Energy Regulatory Commission (FERC). The proposed wholesale power rates are to become effective December 20, 1979.

DATES: Public meetings will be held on the following dates at the locations indicated. At 9 a.m. on July 31, 1979, at the BPA Auditorium, 1002 NE. Holladay Street, Portland, Oregon. At 1 p.m. on August 1, 1979, at the City Council chambers, 140 South Captial Avenue, Idaho Falls, Idaho; and at the Lewis & Clark Room, Colonial Inn, 2301 Colonial Drive, Helena, Montana. At 7:30 p.m. on August 1, 1979, at the California-Oregon Rooms, Sheraton Portland Hotel, Lloyd Center, Portland, Oregon; at Empire Room A, Ridpath Hotel, West 515 Sprague, Spokane, Washington; at Room H, Center House, Seattle Center, Seattle, Washington; and at Forum Building, Walla Walla Community College, Walla Walla, Washington.

Written comments on the revised proposed wholesale power rates may be submitted until August 16, 1979.

ADDRESSES: Written comments not submitted at the public meetings should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–234–3361, ext. 4261. Toll-free numbers for Oregon callers 800–452–8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800–547–6048.

Mr. John H. Alberthal, Area Manager, Room 201, 919 NE. 19th Avenue, Portland, Oregon 97208, 503–234–3361, ext. 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2500, ext. 2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Joseph J. Anderson, District Manager, Room 314, 301 Yakima Street, Wenatchee, Washington 98801, 509–662–4377, ext. 379.

Mr. George A. Tupper, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Harold M. Cantrell, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, ext. 701.

Mr. Martin C. Derksema, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: On January 18, 1978, EPA published in the **Federal Register** (43 FR 2659) a "Notice of Intent to Develop Revised Wholesale Power Rates." In that Notice, BPA announced it would follow procedures similar to BPA's "Procedure for Public Participation in Marketing Policy Formulation" (43 FR 62950) to afford members of the public an opportunity to participate in the formulation of the wholesale power rates.

On August 25, 1978, BPA published in the **Federal Register** (43 FR 38356) its initial wholesale power rate proposal and announced opportunities for public review and comment. BPA held eight public information and eight public comment forums throughout the Pacific Northwest on its initial wholesale power rate proposal which were attended by over 700 people. Many in attendance made oral comments. BPA also received over 300 written comments.

Based upon the written and oral comments BPA received from the public on its August 1978 wholesale power rate proposal, the Administrator revised the repayment study of the Federal Columbia River Power System (FCRPS). The revised repayment study shows the need for approximately a 90 percent increase in revenues. The revised proposed wholesale power rates, plus an intended increase in transmission rates (see 44 FR 30405, May 25, 1979), will produce an estimated 90 percent increase in total revenues throughout the repayment period. This is necessary to comply with statutory requirements to recover the costs of producing and transmitting the electric power Bonneville markets, including amortization of the Federal investment in the FCRPS. The application of the proposed wholesale power rate increase in calendar year 1980 will increase firm power sales revenues and overall power sales revenues by approximately 87 and 97 percent, respectively. The revised wholesale power rates reflect consideration of the comments received by BPA from its customers, other Government entities and the general public on the August 1978 initial wholesale power rate proposal. The Administrator's rates were prepared pursuant to 16 U.S.C. 832 e and f; 835 j, k, and l; 837d; and 838 g and h.

In August 1978, the Deputy Secretary of Energy, John F. O'Leary, determined that due to extraordinary circumstances the requirements for BPA compliance with Procedures for the Development and Analysis of Regulations, Standards and Guidelines (Interim Management Directive dated May 1, 1978) would be waived. The contractual necessity of a rate increase on December 20, 1979, and the fact that BPA had commenced development of its 1979 wholesale power rate proposal prior to issuance of the Interim Management Directive are considerations which justified the waiver.

In the process of developing its proposed wholesale power rates, BPA considered revenue requirements, equity, economic efficiency, conservation, environmental impacts, and ease of administration and understanding. The major studies which were conducted in developing the revised wholesale power rates and are available for review at BPA

headquarters located at 1002 NE. Holladay Street, Portland, Oregon, are:

1. FCRPS Average Cost-of-Service Analysis (Includes Repayment Studies), July 1979 (Revised).

2. BPA Long-Run Incremental Cost-of-Service and Rate Study, July 1979 (Revised).

3. Demand Response to Increasing Electricity Prices by Pacific Northwest Irrigated Agriculture, June 1978, and Supplement, April 1979.

4. Time-Differentiated Pricing Analysis, July 1979 (Revised).

5. Summary Rate Design Study, July 1979 (Revised).

6. Staff Evaluation of Official Record, July 1979.

Environmental impacts of the August 1978 proposal were considered, a draft Environmental Impact Statement (EIS) was prepared, and public comments have been received on the draft EIS and are being addressed. A final EIS will be filed with the Environmental Protection Agency prior to the effective date of the rates ultimately proposed by the Administrator.

By delegation Order No. 0204–33, issued by the Secretary of Energy on December 28, 1978 (43 FR 60636), the Secretary delegated authority to confirm and approve rates on an interim basis to the Assistant Secretary for Resource Applications and final rate confirmation and approval authority to the Federal Energy Regulatory Commission (FERC). Following the public comment period provided for in this Notice, the Administrator will modify this revised wholesale power rate proposal to the extent he deems appropriate, considering the comments received. On or about September 14, 1979, the Administrator will transmit his final wholesale power rate proposal to the Assistant Secretary for Resource Applications for interim approval and for transmittal to the FERC. The proposed wholesale power rates are to become effective December 20, 1979.

I. Proposed Rate Schedules and General Rate Schedule Provisions

A. Schedule EC–8—Wholesale Firm Power Rate

Section 1. *Availability:* This schedule is available for the purchase of firm power for resale or for direct consumption by purchasers other than direct-service industrial purchasers which purchase power under rate Schedules IF–2 or MF–2.

Section 2. *Rate:*

a. *Demand Charge:* (1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $1.71 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $1.40 per kilowatt of billing demand; and (3) all other hours: No demand charge.

b. *Energy Charge:* (1) for the billing months September through March: 4.1 mills per kilowatthour of billing energy; (2) for the billing months April through August: 3.7 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for firm power purchased under this schedule are as follows:

a. For any purchaser not designated to purchase under subsection 3b or 3c: (1) The contract demand as specified in the contract; (2) the measured demand for the month adjusted for power factor; and (3) the measured energy for the month.

b. For any purchaser designated by Bonneville to purchase on a computed demand basis because of such purchaser's potential ability either to sell generation from its resources in such a manner as to increase Bonneville's obligation to deliver firm power to such purchaser in an amount in excess of Bonneville's obligation prior to such sale, or to redistribute the generation from its resources over time in such a manner as to cause losses of power or revenue on the Federal System; provided, however, that when a purchaser operates two or more separate systems, only those systems designated by Bonneville will be covered by this subsection:

(1) The peak computed demand for the month; (2) the average energy computed demand for the month; (3) 60 percent of the highest peak computed demand during the previous 11 months; (4) 60 percent of the highest average energy computed demand for the previous 11 months; (5) the measured demand for the month adjusted for power factor; (6) the measured energy for the month; and (7) the contract demand as specified in an agreement between a purchaser and Bonneville for a specified period of time.

c. For any purchaser contractually limited to an allocation of capacity and/or energy as determined by Bonneville pursuant to the terms of a purchaser's power sales contract: (1) The allocated demand for the month, as specified in the contract; (2) the measured demand for the month adjusted for power factor; (3) the allocated energy for the month, as specified in the contract; (4) the measured energy for the month.

Section 4. *Determination of Billing Demand and Billing Energy:*

(a) For a purchaser governed by subsection 3a:

(1) The billing demand for the month shall be factor 3a(1) or 3a(2), as appropriate to the terms of the power sales contract, except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing demand for the month shall be factor 3c(2): *Provided, however,* That billing demand factor 3c(2), before adjustment for power factor, shall not exceed factor 3c(1).

(2) The billing factor for energy used during the month shall be factor 3a(3) except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing factor for energy shall be factor 3c(4): *Provided, however,* That factor 3c(4) shall not exceed factor 3c(3).

b. For a purchaser governed by subsection 3b:

(1) the billing demand for the month shall be the largest of factors 3b(3), 3b(4), and 3b(5), or 3b(7) if applicable. factor 3b(5), before adjustment for power factor, shall not exceed the largest of factors 3b1(b), 3b(2), or 3b(7) if applicable, except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing demand for the month shall be factor 3c(2): *Provided, however,* That billing demand factor 3c(2), before adjustment for power factor, shall not exceed factor 3c(1).

(2) the billing factor for energy used during the month shall be factor 3b(6) except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing factor for energy shall be factor 3c(4): *Provided, however,* That factor 3c(4) shall not exceed factor 3c(3).

Section 5. *Adjustments:*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor if it is lower than the lagging power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal

System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

b. *At-Site Power:* At-site power purchased for consumption by a purchaser shall be used within 15 miles of the powerplant specified in the power sales contract. At least 90 percent of any at-site power purchased for resale shall be used within 15 miles of the specified powerplant.

The monthly demand charge for at-site firm power will be the monthly demand charge for firm power reduced by $0.257 per kilowatt of billing demand.

At-site firm power is made available only under existing contracts at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by Bonneville. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by Bonneville. This charge shall be in addition to the charge determined by application of section 2 of the rate schedule as reduced by the provisions of this subsection.

Section 6. *Unauthorized Increase:* Any amount by which (a) any 60-minute clock-hour integrated or scheduled demand exceeds the sum of the applicable contract, computed, or allocated demand, plus any applicable scheduled, measured, or contract demand for power which the purchaser acquires from sources other than Bonneville during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month exceeds the sum of the amount of EC–8 firm energy to which the purchaser is entitled pursuant to its power sales contract plus the total of any applicable scheduled or measured demands for power which the purchaser acquires from sources other than Bonneville during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount of excess which may be considered an unauthorized increase pursuant to (a) and the total of such excess amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining the amount of excess which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be $0.10 per kilowatthour.

Section 7. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

B. Schedule EC–9—Reserve Power Rate

Section 1. *Availability:* This schedule is available for the purchase of:

a. Firm power to meet a purchaser's unanticipated load growth as provided in a purchaser's power sales contract.

b. Power for which Bonneville determines no other rate schedule is applicable.

c. Power to serve a purchaser's firm power loads in circumstances where Bonneville does not have a power sales contract in force with a purchaser, and Bonneville determines that this rate should be applicable.

Section 2. *Rate:* a. *Monthly Demand Charge:* (1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $4.87 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $3.99 per kilowatt of billing demand; and (3) all other hours: no demand charge.

b. *Energy Charge:* 19.4 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this schedule are as follows:

a. The contract demand as specified in the contract.

b. The measured demand.

c. The contract amount of energy for the month.

d. The measured energy for the month.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demand and billing energy shall be determined as provided in a purchaser's power sales contract. If Bonneville does not have a power sales contract in force with a purchaser, the billing demand and billing energy shall be the measured demand adjusted for power factor and measured energy.

Section 5. *Unauthorized Increase:* Any amount by which (a) any 60-minute clock-hour integrated or scheduled demand exceeds the sum of the applicable contract, computed, or allocated demand, plus any applicable scheduled, measured, or contract demand for power which the purchaser acquires from sources other than Bonneville during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month exceeds the sum of the amount of EC–9 firm energy to which the purchaser is entitled pursuant to its power sales contract plus the total of any applicable scheduled or measured demands for power which the purchaser acquires from sources other than Bonneville during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount of excess which may be considered an unauthorized increase pursuant to (a) and the total of such excess amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining the amount of excess which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be $0.10 per kilowatthour.

Section 6. *Power Factor Adjustment:* The adjustment for power factor, when specified in this rate schedule or in the power salses contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor if it is lower than the lagging power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

Section 7. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

C. Schedule IF-2—Wholesale Power Rate For Industrial Firm Power

Section 1. *Availability:* This schedule is available for the purchase of industrial firm power and/or authorized increase on a contract demand basis and for additional power requested by the purchaser and made available by Bonneville on an intermittent basis.

Section 2. *Rate:* a. *Demand Charge:* (1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $1.71 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7. a.m. through 10 p.m.: $1.40 per kilowatt of billing demand; (3) all other hours: no demand charge.

b. *Energy Charge:* (1) For the billing months September through March: 4.1 mills per kilowatthour of billing energy; (2) for the billing months April through August: 3.7 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this rate schedule are as follows: (a) Contract demand, (b) curtailed demand, (c) restricted demand, and (d) measured energy.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demands for industrial firm power and authorized increase, respectively, and for additional power requested by the purchaser and made available by Bonneville on an intermittent basis will be the lowest of the respective contract demand, curtailed demand, or restricted demand after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measured energy proportionately distributed among the respective demands for each hour each such demand is applicable during the billing month.

Section 5. *Adjustments:* a. *Availability Credit:* If Bonneville restricts deliveries to the purchaser for any purpose other than scheduled maintenance or forced outage on the purchaser's system or Bonneville's delivery facilities, then the purchaser will be entitled to an annual billing credit for such restriction. For periods beginning July 1 and ending June 30, the credit for such a restriction will be the product of one-twelth of the sum of the monthly billing demands and the value of the availability credit factor determined from the appropriate formula below. For periods which do not correspond to an operating year, the sum of the monthly billing demands during the period will be divided by the number of months in the period and then multiplied by the appropriate availability credit factor calculated for the period. Availability credits will be separately determined for industrial firm power and authorized increase power. Availability credits will not apply to additional power made available on an intermittent basis.

Annual Availability A		Formula for availability credit factor F
greater than	but less than or equal to	
.75	1.00	F = $45 (1-A)
.0	.75	F = $11.25

b. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or power sales contract, may be made by increasing the appropriate demand (contract, curtailed, or restricted) for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor if it is lower than the lagging power factor, at which energy is supplied during such month is less than 95 percent such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

c. *At-Site Power:* At-site industrial firm power shall be used within 15 miles of the powerplant.

The monthly demand charge for at-site industrial firm power will be the monthly demand charge for industrial firm power reduced by $0.257 per kilowatt of billing demand.

At-site industrial firm power is made available only under existing contracts at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by Bonneville. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by Bonneville. This charge shall be in addition to the charge determined by application of section 2 of the rate schedule as reduced by the provisions of this subsection.

Section 6. *Unauthorized Increase:* Any amount by which any 60-minute clock-hour integrated demand exceeds the sum of the billing demands for such hour, before adjustment for power factor, plus any applicable scheduled demands which the purchaser acquires through other contracts for such hour will be assessed a charge of $0.10 per kilowatthour.

Section 7. *Special Conditions—Advance of Energy:* Bonneville may elect to advance energy under terms and conditions of the purchaser's power sales contract.

Section 8. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

D. Schedule MF-2—Wholesale Power Rate for Modified Firm Power

Section 1. *Availability:* This schedule is available for the purchase of modified firm power on a contract demand basis for direct consumption by existing direct-service industrial customers until existing contracts terminate. This schedule is also available for the purchase of authorized increase power on a contract demand basis and for additional power requested by the purchaser and made available by Bonneville on an intermittent basis.

Section 2. *Rate:* a. *Demand Charge:* (1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $1.71 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $1.40 per kilowatt of billing demand; and (3) all other hours: no demand charge.

b. *Energy Charge:* (1) for the billing months September through March: 4.1 mills per kilowatthour of billing energy; (2) for the billing months April through August: 3.7 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for

power purchased under this rate schedule are as follows: (a) Contract demand, (b) curtailed demand, (c) restricted demand, and (d) measured energy.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demand for modified firm power and authorized increase, respectively, and for additional power requested by the purchaser and made available by Bonneville on an intermittent basis will be the lowest of the respective contract demand, curtailed demand, or restricted demands after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measured energy proportionately distributed among the respective demands for each hour each such demand is applicable during the billing month.

Section 5. *Adjustments:*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or power sales contract, shall be made by increasing the appropriate demand (contract, curtailed, or restricted) for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor if it is less than the lagging power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

b. *At-Site Power:* At-site modified firm power shall be used within 15 miles of the powerplant.

The monthly demand charge for at-site modified firm power will be the monthly demand charge for modified firm power reduced by $0.257 per kilowatt of billing demand.

At-site modified firm power will be made available under existing contracts at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by Bonneville. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by Bonneville. This charge shall be in addition to the charge determined by application of section 2 of the rate schedule as reduced by the provisions of this subsection.

Section 6. *Unauthorized Increase:* Any amounts by which any 60-minute clock-hour integrated demand exceeds the sum of the billing demands for any hour, before adjustment for power factor, plus any applicable scheduled demands which the purchaser acquires through other contracts for such hour will be assessed a charge of $0.10 per kilowatthour..

Section 7. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

E. Schedule F–7—Wholesale Firm Capacity Rate

Section 1. *Availability:* This schedule is available for the purchase of firm capacity without energy on a contract demand basis for supply during a contract year of 12 months, or during a contract season of 5 months, June 1 through October 31.

Section 2. *Rate:*

a. *Contract Year Service:* $18.66 per kilowatt per year of contract demand. Interim bills will be rendered monthly at the rate of $1.555 per kilowatt of contract demand.

b. *Contract Season Service:* $10.25 per kilowatt per season of contract demand. Interim bills will be rendered monthly at the rate of $2.050 per kilowatt of contract demand.

c. The capacity rate specified in subsections a. and b. above shall be increases by $0.265 per kilowattmonth of billing demand for each hour that the purchaser's monthly demand duration exceeds 6 hours. The purchaser's demand duration for the month shall be determined by dividing the kilowatthours supplied under this rate schedule to a purchaser on the day of maximum kilowatthour use between the hours of 7 a.m. and 10 p.m., excluding Sundays, by the purchaser's contract demand effective for such month. If, however, Bonneville does not require the delivery of peaking replacement energy by the purchaser during certain periods, the additional charge above will not be made for such periods.

d. In addition to the charges above, the capacity rate shall be increased by $0.136 per kilowatt per month of contract demand for power transmitted over the Pacific Northwest-Pacific Southwest Intertie and made available to the purchaser at the Oregon-California border or the Oregon-Nevada border.

Section 3. *Billing Factors:* The billing demand will be the contract demand.

Section 4. *Special Provision:* Contracts for the purchase of firm capacity under this schedule will include provisions for replacement by the purchaser of energy accompanying the delivery of such capacity.

Section 5. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

Schedule F–8—Emergency Capacity Rate

Section 1. *Availability:* This schedule is available for purchase of emergency capacity requested by a purchaser when Bonneville determines that an emergency condition exists and it has capacity available for such purpose.

Section 2. *Rate:* $0.41 per kilowatt of demand per calendar week or portion thereof. For deliveries over the Pacific Northwest-Pacific Southwest intertie, made available to the purchaser at the Oregon-California or the Oregon-Nevada border, the charge will be increased by $0.03 per kilowatt. Bills will be rendered monthly.

Section 3. *Billing Factors:* The billing demand will be the maximum amount requested by the purchaser and made available by Bonneville during a calendar week. *Provided,* That if Bonneville is unable to meet subsequent requests by the purchaser for delivery at the demand previously established during such week, such billing demand for such week shall be the lower demand which Bonneville is able to supply.

Section 4. *Special Provision:* Energy delivered with such capacity shall be returned to Bonneville within 7 days of the date of delivery at times and rates of delivery agreed to by the purchaser and Bonneville prior to delivery. Bonneville may agree to accept delay of return energy beyond 7 days if it so agrees prior to the delivery of capacity.

F. Schedule J–2—Wholesale Firm Energy Rate

Section 1. *Availability:* This schedule is available for contract purchase of firm energy, to be delivered for the uses, in the amounts, and during the period or periods specified in such contract.

Section 2. *Rate:* 6.1 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The contract energy is the billing factor.

Section 4. *Determination of Billing Energy:* The billing energy shall be determined as provided in the purchaser's power sales contract.

Section 5. *Delivery:* Delivery of energy under this rate schedule is assured during the contract period. However, Bonneville may interrupt the delivery of firm energy hereunder, in whole or in part, at any time that Bonneville determines that Bonneville is unable because of system operating conditions, including lack of generation or transmission capacity, to effect such delivery.

Section 6. *Power Factor Adjustment:* The adjustment for power factor, when specified in this rate schedule or power sales contract, may be made by increasing the contract energy delivered for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor if it is less than the lagging power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to the purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

Section 7. *General Provisions:* Sales of energy under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

G. Schedule H–6—Wholesale Nonfirm Energy Rate

Section 1. *Availability:* This schedule is available for the purchase of nonfirm energy both within and outside the Pacific Northwest. This schedule is also available for energy delivered for emergency use under the conditions set forth in section 5.1 of the General Rate Schedule Provisions. This schedule is not available for the purchase of energy which Bonneville has a firm obligation to supply.

Section 2. *Rate:*

a. Thermal Displacement—For nonfirm energy sales to any purchaser for displacement of thermal generation. When Bonneville determines that limited quantities of nonfirm energy are available, such energy shall be offered to displace the highest cost generation in descending order to the lowest cost generation, first inside and then outside the Pacific Northwest, consistent with Pub. L. 88–552 and other applicable statutes.

(1) For all the thermal displacement sales not subject to the provisions of a(2) below: 5 mills per kilowatthour or 50 percent of the decremental cost of the displaced thermal resource, whichever, is greater, up to a limit of 20 mills per kilowatthour. Bonneville may determine that because of water and market conditions a rate of less than 50 percent of decremental cost, but not less than 5 mills per kilowatthour, may be charged. The purchaser will furnish Bonneville with the decremental cost of the purchaser's displaced thermal resource.

(2) For sales to any Pacific Northwest utility when that utility continues to operate a displaceable thermal resource and sells the output outside the Pacific Northwest as defined in Pub. L. 88–552 the rate will be the lesser of 20 mills per kilowatthour or a rate based on the following formula: Rate = [(Rate per kilowatthour for the purchaser's sale of nonfirm energy for use outside the Pacific Northwest which is generated from the purchaser's designated thermal resource during the period that purchases of nonfirm energy are made from Bonneville) + (decremental cost of the purchaser's designated operated thermal resource)] * (.5).

At the time the purchase is arranged the purchaser will furnish Bonneville with: (a) The amount and rate per kilowatt-hour for the purchaser's sale of nonfirm energy for use outside the Pacific Northwest which is generated from the purchaser's own thermal resource during the period that purchases of nonfirm energy are made from Bonneville, and (b) the decremental cost of the purchaser's designated operating thermal resource(s).

b. Sales other than for Thermal Displacement—For nonfirm energy sales to any purchaser for use in the Pacific Northwest as defined in Pub. L. 88–552, which are not applicable to the provisions of a. above.

(1) 6.5 mills per kilowatthour during the period Monday through Saturday, 7 a.m. through 10 p.m.; and

(2) 4.5 mills per kilowatthour for all hours of the year not included in subsection b(1) above.

c. For contracts which refer to this schedule for determining a value of energy, the rate is 5.5 mills per kilowatthour.

d. The charge provided for in subsection a. above will be increased by 0.2 mill per kilowatthour for energy transmitted over the Pacific Northwest-Pacific Southwest Intertie and made available at the Oregon-California or the Oregon-Nevada border.

Section 3. *Delivery:* Bonneville shall determine the availability of energy hereunder and the rate of delivery thereof.

Section 4. *General Provisions:* Sales of energy under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

H. General Rate Schedule Provisions

1.1 *Firm Power:* Firm power is electric power which Bonneville will make continuously available to a purchaser to meet its load requirements except when restricted because the operation of generation or transmission facilities used by Bonneville to serve such purchaser is suspended, interrupted, interfered with, curtailed, or restricted as the result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract. Such restriction of firm power shall not be made until industrial firm power has been restricted in accordance with section 1.4 and until modified firm power has been restricted in accordance with section 1.2.

1.2 *Modified Firm Power:* Modified firm power is electric power which Bonneville will make continuously available to a purchaser on a contract demand basis subject to: (a) The restriction applicable to firm power, and (b) the following:

When a restriction is made necessary because the operation of generation or transmission facilities used by Bonneville to serve such purchaser and one or more firm power purchasers is suspended, interrupted, interfered with, curtailed, or restricted as a result of the occurrence of any condition described in the Uncontrollable Forces or Continuity

of Service Sections of the General Contract Provisions of the contract, Bonneville shall restrict such purchaser's contract demand for modified firm power to the extent necessary to prevent, if possible, or minimize restriction of any firm power: *Provided, however,* That: (a) Such restriction of modified firm power shall not exceed at any time 25 percent of the contract demand therefor, and (b) the accumulation of such restrictions of modified firm power during any calendar year, expressed in kilowatthours, shall not exceed 500 times the contract demand therefor. When possible, restrictions of modified firm power will be made ratably with restrictions of industrial firm power based on the proportion that the respective contract demands bear to one another. The extent of such restrictions shall be limited for modified firm power by this subsection and for industrial firm power by the Restriction of Deliveries Section of the General Contract Provisions of the contract.

1.3 *Firm Capacity:* Firm capacity is capacity which Bonneville assures will be available to a purchaser on a contract demand basis except when operation of generation or transmission facilities used by Bonneville to serve such purchaser is suspended, interrupted, interfered with, curtailed, or restricted as the result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract.

1.4 *Industrial Firm Power:* Industrial firm power is electric power which Bonneville will make continuously available to a purchaser on a contract demand basis subject to: (a) the restriction applicable to firm power, and (b) the following:

(1) The restrictions given in the Restriction of Deliveries Section of the General Contract Provisions of the contract.

(2) When a restriction is made necessary because of the operation of generation or transmission facilities used by Bonneville to serve such purchaser and one or more firm power purchasers is suspended, interrupted, interfered with, curtailed, or restricted as a result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract, Bonneville shall restrict such purchaser's contract demand for industrial firm power to the extent necessary to prevent, if possible, or minimize restriction of firm power. When possible, restrictions of industrial firm power will be made ratably with restrictions of modified firm power based on the proportion that the respective contract demands bear to one another. The extent of such restrictions shall be limited for modified firm power by section 1.2(b) of these General Rate Schedule Provisions and for industrial firm power by the Restriction of Deliveries Section of the General Contract Provisions of the contract.

1.5 *Authorized Increase:* An authorized increased is an amount of electric power specified in the contract in excess of the contract demand for firm power, modified firm power, or industrial firm power that Bonneville may be able to make available to the purchaser upon its request. The purchaser shall make such request in writing stating the amount of increase requested, the purpose for which it will be used, and the period for which it is needed. Such request shall be made prior to the first calendar month beginning such specified period. Bonneville will then determine whether such increase can be made available, but it shall retain the right to restrict the delivery of such increase if it determines at any subsequent time that such increase will no longer be available.

The purchaser may curtail an authorized increase, in whole or in part, at the end of any billing month within the period such authorized increase is to be made available.

1.6 *Firm Energy:* Firm energy is energy which Bonneville assures will be available to a purchaser during the period or periods specified in the contract except during such hours as specified in the contract and when the operation of the Government's facilities used to serve the purchaser are suspended, interrupted, interferred with, curtailed, or restricted by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract.

2.1 *Contract Demand:* The contract demand shall be the number of kilowatts that the purchaser agrees to purchase and Bonneville agrees to make available. Bonneville may agree to make deliveries at a rate in excess of the contract demand at the request of the purchaser (authorized increase), but shall not be obligated to continue such excess deliveries.

2.2 *Measured Demand:* Except where deliveries are scheduled as hereinafter provided, the measured demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands at which electric energy is delivered to a purchaser at each point of delivery during each time period specified in the applicable rate schedule during any billing period. Such largest 60-minute integrated demand shall be determined from measurements made as specified in the contract, or as determined in section 3.2 herein. Bonneville, in determining the measured demand, will exclude any abnormal 60-minute integrated demands due to or resulting from (a) emergencies or breakdowns on, or maintenance of, the Federal System facilities, and (b) emergencies on the purchaser's facilities, provided that such facilities have been adequately maintained and prudently operated as determined by Bonneville. For those contracts to which Bonneville is a party and which provide for delivery of more than one class of electric power to the purchaser at any point of delivery, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The portion of the total measured demand so assigned shall constitute the measured demand for each such class of power.

If the flow of electric energy to a purchaser's system through two or more points of delivery cannot be adequately controlled because such points are interconnected within the purchaser's system, or the purchaser's system is interconnected directly or indirectly with the Federal System, the purchaser's measured demand for each class of power for such system for any billing period shall be the largest of the hourly amounts of such class of power which are scheduled for delivery to the purchaser during each time period specified in the applicable rate schedule.

2.3 *Peak Computed Demand and Energy Computed Demand:* The purchaser's peak computed demand for each billing month shall be the largest amount during such month by which the purchaser's 60-minute system demand exceeds its assured peaking capability.

The purchaser's average energy computed demand for each billing month shall be the amount during such month by which the purchaser's actual system average load exceeds its assured average energy capability.

a. *General Principles:* (1) The assured peaking and average energy capability of each of the purchaser's systems shall be determined and applied separately.

(2) As used in this section, "year" shall mean the 12-month period commencing July 1.

(3) The critical period is that period, determined for the purchaser's system under adverse streamflow conditions adjusted for current water uses, assured storage operation, and appropriate operating agreements, during which the

purchaser would have the maximum requirement for peaking or energy after utilizing the firm capability of all resources available to its system in such a manner as to place the least requirement for capacity and energy on Bonneville.

(4) Critical water conditions are those conditions of streamflow based on historical records, adjusted for current water uses, assured storage operation, and appropriate operating agreements, for the year or years which would result in the minimum capability of the purchaser's firm resources during the critical period.

(5) Prior to the beginning of each year the purchaser shall determine the assured capability of each of the purchaser's systems in terms of peaking and average energy for each month of each year or years within the critical period. The firm capability of all resources available to the purchaser's system shall be utilized in such a manner as to place the least requirement for capacity and energy on Bonneville. Such assured capability shall be effective after review and approval by Bonneville.

(6) The purchasers's assured energy capability shall be determined by shaping its firm resources to its firm load in a manner which places a uniform requirement on Bonneville within each year of the critical period with such requirement increasing each year not in excess of the purchaser's annual load growth.

(7) As used herein, the capability of a firm resource shall include only that portion of the total capability of such resource which the purchaser can deliver on a firm basis to its load. The capabilities of all generating facilities which are claimed as part of the purchaser's assured capability shall be determined by test or other substantiating data acceptable to Bonneville. Bonneville may require verification of the capabilities of any or all of the purchaser's generating facilities. Such verification will not be required more often than once each year for operating plants, or more often than once each third year for thermal plants in cold standby status, if Bonneville determines that adequate annual preventive maintenance is performed and the plant is capable of operating at its claimed capability.

(8) In determining assured capability, the aggregate capability of the purchaser's firm resources shall be appropriately reduced to provide adequate reserves.

b. *Deterination of Assured Capability:* The purchaser's assured peaking and energy capabilities shall be the respective sums of the capabilities of its hydroelectric generating plants based on the most critical water conditions on the purchaser's system, the capabilities of its thermal generating plants based on the most adverse fuel or other conditions reasonably to be anticipated; and the firm capabilities of other resources made available under contracts prior to the beginning of the year, after deduction of adequate reserves. Assured capabilities shall be determined for each month if the purchaser has seasonal storage. The capabilities of the purchaser's firm resources shall be determined as follows:

(1) *Hydroelectric Generating Facilities:* The capability of each of the purchaser's hydroelectric generating plants shall be determined in terms of both peaking and average energy using critical water conditions. The average energy capability shall be that capability which would be available under the storage operation necessary to produce the claimed peaking capability.

Seasonal storage shall mean storage sufficient to regulate all the purchaser's hydroelectric resources in such a manner that when combined with the purchaser's thermal generating facilities, if any, and with firm capacity and energy available to the purchaser under contracts, a uniform energy computed demand for a period of 1 month or more would result.

A purchaser having seasonal storage shall, within 10 days after the end of each month in the critical period, notify Bonneville in writing of the assured energy capability to be applied tentatively to the preceding month; such notice shall also specify the purchaser's best estimate of its average system energy load for such month. If such notice is not submitted, or is submitted later than 10 days after the end of the month to which it applies, subject to the limitations stated herein, the assured energy capability determined for such month prior to the beginning of the year shall be applied to such month and may not be changed thereafter.

If notice has been submitted pursuant to the preceding paragraph, the purchaser shall, within 30 days after the end of the month, submit final specification of the assured energy capability to be applied to the preceding month; provided that the assured energy capability so specified shall not differ from the amount shown in the original notice by more than the amount by which the purchaser's actual average system energy load for such month differs from the estimate of that load shown in the original notice. If the assured energy capability for such month differs from that determined prior to the beginning of the year for such month, the purchaser, if required by Bonneville, shall demonstrate by a suitable regulation study based on critical water conditions that such change could actually be accomplished, and that the remaining balance of its total critical period assured energy capability could be developed without adversely affecting the firm capability of other purchaser's resources. The algebraic sum of all such changes in the purchaser's assured energy capability shall be zero at the end of the critical period or year, whichever is earlier. Appropriate adjustments in the assured peaking capability shall be made if required by any change in reservoir operation indicated by such revisions in the monthly distribution of critical period energy capability.

(2) *Thermal Generating Facilities:* The capability of each of the purchaser's thermal generating plants shall be determined in terms of both peaking and average energy. Such capabilities shall be based on the most adverse fuel or other conditions reasonably to be anticipated. The effect of limitations on fuel supply due to war or other extraordinary situations will be evaluated at the time of occurrence.

(3) *Other Sources of Power:* The assured capability of other resources available to the purchaser on a firm basis under contracts shall be determined prior to each year in terms of both peaking and average energy.

c. *Determination of Computed Demand:* The purchaser's computed demand for each billing month shall be the greater of:

(1) The largest amount during such month by which the purchaser's actual 60-minute system demand, excluding any loads otherwise provided for in the contract, exceeds its assured peaking capability for such month, or period within such month, or

(2) The largest amount for such month, or period within such month, by which the purchaser's actual system average energy load, excluding the average energy loads otherwise provided for in the contract, exceeds its assured average energy capability.

The use of computed demands as one of the alternatives in determining billing demand is intended to assure that each purchaser who purchases power from Bonneville to supplement its own firm resources will purchase amounts of power substantially equivalent to the additional capacity and energy which the purchaser would otherwise have to

provide on the basis of normal and prudent operations, viz, sufficient capacity and energy to carry the load through the most critical water or other conditions reasonably to be anticipated, with an adequate reserve.

Since the computed demand depends on the relationship of capability of resources to system requirements, the computed demand for any month cannot be determined until after the end of the month. As each purchaser must estimate its own load, and is in the best position to follow its development from day to day, it will be the purchaser's responsibility to request scheduling of firm power, including any increase over previously established demands, on the basis estimated by the purchaser to result in the most advantageous purchase of the power to be billed at the end of the month.

Each contract in which computed demand may be a factor in determining the billing demand shall have attached to it as an exhibit a sample calculation of the computed demand of the purchaser for the period having the highest computed demand during the 12 months immediately preceding the effective date of the contract.

2.4 *Restricted Demand:* A restricted demand shall be the number of kilowatts of firm power, modified firm power, industrial firm power, or authorized increase of any of the preceding classes of power which results when Bonneville has restricted delivery of such power for 1 clock-hour or more. Such restrictions by Bonneville are made pursuant to section 8 of the General Contract Provisions for industrial firm power and pursuant to sections 1.1 and 1.2 of the General Rate Schedule Provisions for firm power and modified firm power, respectively. Such restricted demand shall be determined by Bonneville after the purchaser has made its determination to accept such restriction or to curtail its contract demand for the month in accordance with section 2.5 of the General Rate Schedule Provisions.

2.5 *Curtailed Demand:* A curtailed demand shall be the number of kilowatts of firm power, modified firm power, industrial firm power, or authorized increase of any of the preceding classes of power which results from the purchaser's request for such power in amounts less than the contract demand therefor. Each purchaser of industrial firm power or modified firm power may curtail its demand in accordance with the section entitled "Curtailment of Deliveries and Payment Therefor" of the General Contract Provisions of the contract. Each purchaser of an authorized increase in excess of firm power, modified firm power, or industrial firm power may curtail its demand in accordance with section 1.5 of the General Rate Schedule Provisions.

3.1 *Billing:* Unless otherwise provided in the contract, power made available to a purchaser at more than one point of delivery shall be billed separately under the applicable rate schedule or schedules. The contract may provide for combined billing under specified conditions and terms when (a) delivery at more than one point is beneficial to Bonneville, or (b) the flow of power at the several points of delivery is reasonably beyond the control of the purchaser.

If deliveries at more than one point of delivery are billed on a combined basis for the convenience of the customer, a charge will be made for the diversity between the measured demands at the several points of delivery. The charge for the diversity shall be determined in a uniform manner and shall be specified in the contract.

3.2 *Determination of Estimated Billing Data:* If the purchased amounts of capacity, energy, or the 60-minute integrated demands for energy must be estimated from data other than metered or scheduled quantities, Bonneville and the purchaser will agree on billing data to be used in preparing the bill. If the parties cannot agree on the estimated billing quantities, a determination binding on both parties shall be made in accordance with the arbitration provisions of the contract.

4.1 *Application of Rates During Initial Operation Period:* For an initial operating period, not in excess of 3 months, beginning with the commencement of operation of a new industrial plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, Bonneville may agree (a) to bill for service to such new or reactivated plant facilities on the basis of the measured demand for each day, adjusted for power factor, or (b) if such facilities are served by a distributor purchasing power therefor from Bonneville, to bill for that portion of such distributor's load which results from service to such facilities on the basis of the measured demand for each day, adjusted for power factor. Any rate schedule provisions regarding contract demand, billing demand, and minimum monthly charge which are inconsistent with this section shall be inoperative during such initial operating period.

The initial operating period and the special billing provisions may, on approval by Bonneville, be extended beyond the initial 3-month period for such additional time as is justified by the developmental character of the operations.

5.1 *Energy Supplied For Emergency Use:* A purchaser taking firm power shall pay in accordance with Wholesale Nonfirm Energy Rate Schedule H–6 and emergency capacity Schedule F–8 for any electric energy which has been supplied (a) for use during an emergency on the purchaser's system, or (b) following an emergency to replace energy secured from sources other than Bonneville during such emergency, except that mutual emergency assistance may be provided and settled under exchange agreements.

6.1 *Billing Month:* Meters will normally be read and bills computed at intervals of 1 month. A month is defined as the interval between meter-reading dates which normally will be approximately 30 days. If service is for less or more than the normal billing month, the monthly charges stated in the applicable rate schedule will be appropriately adjusted. Winter and summer periods identified in the rate schedules will begin and end with the beginning and ending of the purchaser's billing month having meter-reading dates closest to the periods so identified.

7.1 *Payment of Bills:* Bills for power shall be rendered monthly and shall be payable at Bonneville's headquarters. Failure to receive a bill shall not release the purchaser from liability for payment. Demand and energy billings under each rate schedule application shall be rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

If Bonneville is unable to render the purchaser a timely monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill, if so issued, shall have the validity of and be subject to the same repayment provisions as shall a final bill.

Bills not paid in full on or before the close of business of the 20th day after the date of the bill shall bear an additional charge which shall be the greater of one-fourth percent (0.25%) of the amount unpaid or $50. Thereafter a charge of one-twentieth percent (0.05%) of the sum of the initial amount remaining unpaid and the additional charge herein described shall be added on each succeeding day until the amount

due is paid in full. The provisions of this paragraph shall not apply to bills rendered under contracts with other agencies of the United States.

Remittance received by mail will be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the 20th day after the date of the bill. If the 20th day after the date of the bill is a Sunday or other nonbusiness day of the purchaser, the next following business day shall be the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the 20th day must bear a postal department cancellation in order to avoid assessment of such further charges.

Bonneville may, whenever, a power bill or a portion thereof remains unpaid subsequent to the 20th day after the date of the bill, and after giving 30 days advance notice in writing, cancel the contract for service to the purchaser, but such cancellation shall not affect the purchaser's liability for any charges accrued prior thereto.

8.1 *Approval of Rates:* Schedule of rates and charges, or modifications thereof, for electric energy sold by Bonneville shall become effective only after confirmation and approval by the entity or entities designated to confirm and approve such rates and charges by the Secretary of Energy.

9.1 *Average Power Factor:* The formula for determining average power factor is as follows:

$$\text{Average Power Factor} = \text{Kilowatthours} \div \{(\text{Kilowatthours})^2 + (\text{Reactive Kilovoltamperehours})^2\}$$

The data used in the above formula shall be obtained from meters which are ratcheted to prevent reverse registration.

When deliveries to a purchaser at any point of delivery include more than one class of power or are under more than one rate schedule, and it is impracticable to separately meter the kilowatthours and reactive kilovoltamperehours for each class, the average power factor of the total deliveries for the month will be used, where applicable, as the power factor for each of the separate classes of power and rate schedules.

10.1 *Temporary Curtailment of Contract Demand:* The reduction of charges for power curtailed pursuant to the purchaser's contract and Sections 1.5 and 2.5 hereof shall be applied in a uniform manner.

11.1 *General Provisions:* The Wholesale Rate Schedules and General Rate Schedule Provisions of the Bonneville Power Administration effective December 20, 1979, supersede in their entirety Bonneville's Wholesale Power Rate Schedules and General Rate Schedule Provisions effective December 20, 1974.

II. Major Issues

The rate schedules included in this Notice are based on comments received on the August proposal and revised rate studies prepared by BPA. Upon approval, the rate schedules will become effective December 20, 1979. The initial proposal was announced in the **Federal Register** on August 25, 1978.

The revised proposal is based on five studies performed by BPA and comments received on the initial proposal through BPA's public involvement program. The studies include a repayment study to determine revenue requirements, a fully allocated average cost-of-service analysis, a time-differentiated pricing analysis based on average costs, a long-run incremental cost-of-service analysis, and a summary rate design study which explains the process used in developing the rate schedules. The cost-of-service analysis and repayment study were used as the foundation for the rate design process. The results from the time-differentiated pricing analysis and the long-run incremental cost-of-service analysis were also utilized in the rate design process. Other factors were also considered in development of rates, including value of service, continuity, ease of administration and understanding, and conservation. The latter factor was addressed through time-differentiated pricing analysis and long-run incremental cost analysis.

In developing and reviewing the proposed 1979 Wholesale Power Rates, BPA has followed its published procedures for public participation (42 FR 62950). Many comments were received through a series of public information forums, technical meetings, and public comment forums during the fall of 1978. In addition, BPA received over 300 letters including many technical reports submitted by customer groups and interested government agencies.

A discussion of the revised rate proposal and the important issues raised in response to the initial proposal is included under five topics: repayment study, average cost-of-service analysis, time-differentiated pricing analysis, long-run incremental cost-of-service analysis, and rate schedules.

a. *Repayment Study:* BPA's statutory obligation is to set rates at a level sufficient to produce revenues that will recover all operating costs and, in addition, repay the Government's investment in power facilities within a period not exceeding 50 years from the date each facility is placed in service or the average service life of the facilities, whichever is less. The repayment periods are 50 years for hydroelectric generating facilities and 35 years for transmission facilities. In addition, power revenues must repay that portion of the construction costs of Federal irrigation projects which is beyond the repayment ability of irrigation water users.

The Federal Columbia River Power System (FCRPS) revenue requirement is determined through preparation of a repayment study which calculates the minimum level of revenue required to recover all FCRPS costs, which include (1) purchased power, (2) operation and maintenance, (3) interest, and (4) amortization of the investment in power facilities within the prescribed repayment periods. The test of sufficiency of revenues is whether all costs can be repaid within the repayment period.

The major issue raised concerning the repayment study which was the basis for the revenue levels to be produced by the rates in the August 1978 proposal was the inclusion of certain costs for thermal power projects prior to commercial operation. The repayment study for the revised proposal continues to include principal and interest costs for Washington Public Power Supply System's (WPPSS) nuclear plants Nos. 1 and 2. BPA is obligated to pay this debt service from dates certain set forth in the net-billing agreements. These dates certain are the dates the projects were expected to be on-line at the time the contracts were negotiated. BPA and WPPSS investigated the possibility of amending existing arrangements to permit WPPSS to issue subordinate bonds to finance the debt service until the plants were placed in service. However, this proposal failed to receive the required unanimous approval of the 104 participants in the WPPSS plants from which BPA has contracted plant capability. Therefore, the revised rates must produce revenues sufficient to include financing of debt service by BPA for WPPSS nuclear plants Nos. 1 and 2.

The new repayment study includes several changes from the study presented in August 1978. These changes caused both increases and decreases in repayment requirements. Those factors which tended to increase revenue

requirements include: (1) New, higher costs based on more recent information for Federal generation and transmission projects, and WPPSS projects; (2) higher interest rates on Federal projects and on BPA bonds; (3) escalation of all non purchase power costs, to 1980 price levels from 1977 price levels; (4) reduction of revenue estimates because of peaking limitations; and (5) additional power purchases in 1981–83. The factors which tended to reduce revenue requirements include: (1) The elimination of Federal projects which will not be in service during the rate period; (2) a virtual elimination of any surplus; and (3) the elimination of WPPSS projects variable costs and revenues until plants are in service. For the last item the cost reduction was greater than the revenue reduction and therefore the impact was to reduce total costs.

Another issue related to repayment concerns the magnitude of the rate increase that BPA has proposed. Bonneville has received comments that BPA's rate increase would be in conflict with the President's guidelines on wage and price stability.

Bonneville is obligated by statute to recover costs sufficient to meet its repayment obligations. The President's Council on Wage and Price Stability has reviewed the relationship between statutory obligations and wage and price standards, and has determined that statutory provisions take precedence. This conclusion is based on a notice in the Federal Register on March 23, 1979, in which the Council on Wage and Price Stability states that "while the price standard is intended to apply to all 'government enterprise', any statute mandating a particular pricing policy will, of course, take precedence."

b. *Average Cost-of-Service Analysis:* The form and magnitude of the revised schedules are strongly influenced by the results of the average cost-of-service analysis.

In developing the analysis, BPA attempted to follow the standard procedures for this type of analysis as much as possible, though modifications were made to reflect the repayment method used by Federal power marketing agencies to determine revenue requirements. Test years were selected (fiscal year 1978 through fiscal year 1983) and cost data were collected. Fiscal year 1980 was used as the basis for the proposed rates because it most closely matches the period during which the rates are to be effective.

The first step of the cost analysis was to divide investment and annual costs according to function performed by the power system. In the case of the FCRPS, these functions were defined as generation, transmission, and metering and billing. All costs were assigned to one of these functions. The costs functionalized to generation were then classified to the two subfunctions of generation capacity and energy production. Transmission costs were classified entirely to capacity.

The final major step was to allocate costs to service classes. The service classes include power rates, wheeling rates, and other services and revenues. The power rate categories were further divided into subcategories, such as firm power, reserve power, industrial firm power, modified firm power, firm capacity, firm energy, and nonfirm energy.

Many comments were received concerning the cost-of-service analysis that was developed for the August proposal. Issues addressed by these comments include division of costs between capacity and energy, separation of transmission costs into components, and allocation of costs to various services.

Comments on classification of costs between capacity and energy were directed at the appropriateness of the method BPA used. Some argued for use of a fixed-variable method which classifies fixed costs to capacity and variable costs to energy. Some suggested some modification of the BPA hydro and thermal classification method. However, others agreed with the BPA method used for both hydro and thermal generation.

The classification of hydro costs between capacity and energy for the revised proposal is similar to the method used for the August proposal. All costs associated with the hydro units defined as peaking units are classified to capacity. However, the formula for classifying the hydro units defined as base units has been modified slightly. Instead of using instantaneous peaking capability in the formula, a 10-hour peaking capability has been used. Additionally, the formula has been modified to give equal weight to capacity and energy for megawatts produced under critical water conditions with an adjustment to reflect the anticipated availability of energy to meet the industrial top quartile load. These changes resulted in the classification of 70 percent of base system hydro cost to capacity and 30 percent to energy.

Operation and maintenance costs of the base system plants are now classified 95 percent to capacity and 5 percent to energy. This differs from the original classification of operation and maintenance costs for base hydro of 100 percent to capacity. This adjustment reflects the fact that 5 percent of operation and maintenance costs vary as generation output varies. Therefore, these costs were considered energy related.

The classification method for thermal costs has been modified from the initial proposal. The cost to BPA for its purchase of thermal plant capability is still classified by crediting thermal plant costs by an amount equal to the cost of hydro peaking capacity. The first change concerns the hydro capacity credit. The new credit is based on the cost of capacity for all the units which have been defined as peaking units at the FCRPS projects, instead of the limited number of plants which were used in the initial proposal. Also, adjustments were made to include some of the sunk costs of peaking units which were incurred in constructing the original projects. The new credit is in 1980 dollars. The other major change affecting thermal classification concerns the thermal project costs which are included in the analysis. The new classification percentages are based on the cost in 1980 dollars of WPPSS plants Nos. 1, 2, and 3. Originally, the classification was based on a 1977 cost estimate of costs to date of completion of WPPSS plants Nos. 1 and 2 and Trojan. This modification results in classification of 26 percent of thermal plant costs to capacity and 74 percent to energy. All variable operation and maintenance costs and fuel costs of thermal plants continue to be classified to energy.

After the functionalization step, transmission system costs could have been separated into components, or treated as a single unit using the "rolled in" method. In the August proposal, BPA chose the "rolled in" method. With that approach, all transmission facilities were considered as part of an integrated system except for the Pacific Northwest-Pacific Southwest intertie facilities and some minor amounts included in use-of-facilities wheeling arrangements and leased facilities. The revised cost-of-service analysis has separated the transmission costs into seven segments. Segments include: (1) Generation integration, (2) transmission system, (3) intertie, (4) fringe area, (5) preference customer delivery, (6) direct-service industrial delivery, and (7) investor-owned utility delivery. Costs associated with each component were then allocated to service classes based on specific uses of such facilities.

The final step in the cost-of-service analysis process is allocation of costs to

each service category. In the August 1978 cost-of-service analysis capacity-related generation costs and transmission costs were allocated according to the average of the 12 coincidental peak (12 CP) method. The 12 CP method allocated capacity related costs to each customer class in proportion to the projected coincidental peak demand for the class, averaged over the 12 months in the test year. This method is widely used in the electric utility industry, although other methods which would produce somewhat different results could have been applied. BPA received many comments that supported the use of the 12 CP method; other comments indicated that the 12 CP method was inappropriate.

Energy related costs were allocated to customer classes in direct proportion to the energy loads of each class. No comments have been received regarding this method of allocating energy costs.

After reviewing all comments and further analyzing the issues relevant to allocation of capacity costs, BPA continues to allocate both generation and transmission capacity costs on the basis of the 12 CP method. This method was determined to be most appropriate because of the relatively uniform level of peak loads throughout the year and the view that customers receiving service during any of the monthly coincidental peaks should be allocated costs.

c. *Time-Differentiated Pricing Analysis:* Time-differentiated pricing is based on the concept of cost causation. In the short run, demand for power must be met from existing capacity, if it is available. In the long run, the variable nature of consumption over different time periods may require additional resources to meet peakload demands. Because additional capacity and energy are required during peak periods, the cost of supplying that energy and capacity may be higher than during offpeak periods.

The method used to develop BPA's time-differentiated pricing study is but one of many methods that could be employed to conduct this type of analysis. The first step was to establish costing/pricing periods using the following criteria: (1) The number of periods selected should be feasible to administer; (2) hours or months which have similar costs should be combined into like groups; and (3) the periods chosen should be broad enough to allow for shifts in loads without shifting the peaks outside the peak period. Once the periods were established the costs were apportioned to each period.

BPA separately examined the time-related costs of capacity and energy. For its analysis of capacity costs, BPA divided the year into three periods: Peak season, secondary season, and offpeak hours. The data used to establish these three time periods were generation output, loads, system operating characteristics, and probabilities of negative margin (PONM).

Seasonal periods were established by examining probability of negative margin (PONM) data by month for the years under study. It was found that January and April account for most of the PONM; while December, February, March, and May have lesser values. The remaining months had near zero PONM.

Diurnal periods were chosen by examining the average ratios of hourly generation to the daily peak generation for each weekday of the month for operating years 1975 through 1978. An analysis of firm loads and PONM indicated that over 99.9 percent of all PONM occurs during the day with loads which are 90 percent or greater of the daily peak loads. After examining each individual month for all weekday hours, it was concluded that the appropriate peak period is 7 a.m. to 10 p.m.

A separate analysis that evaluated weekend hours demonstrated that Saturday should be included in the peak period. Therefore, the peak capacity season is December through May, Monday through Saturday, 7 a.m. to 10 p.m. The secondary capacity season is June through November, Monday through Saturday, 7 a.m. to 10 p.m. The offpeak hours are all remaining hours of the year.

For most electric utilities, energy costs will vary over the day and year as fuel costs vary by time period. However, the FCRPS is unlike most other electric systems because of the large portion of hydroelectric resources on its system and the absence of combustion turbine resources. For a system with combustion turbines, there is a significant difference in energy costs between the peak and offpeak periods. In the case of the FCRPS, thermal plants are considered baseload and are designed to operate throughout the year except for planned maintenance, refueling, and forced outages. These outages are dependent upon many factors, including fuel life, equipment failure, demand for energy, and the availability of alternative resources; and thus, may occur throughout the year. Consequently, there is no time-differentiation of thermal fuel costs or other thermal variable costs for FCRPS.

The remaining resources are hydroelectric, which do not have costs which vary by hour or season except for costs associated with the storage of water to meet peak season energy requirements. Consequently, the FCRPS energy costs vary seasonally but not diurnally. Data indicate that there is a winter period and a summer period. The summer period includes April through August. The April to August period is that period of the year when streamflows are at a maximum. It is during this period that reservoirs are filled to meet winter energy requirements. Less than 7 percent of energy available from storage is consumed during the April through August period.

The approach used in this study does not time-differentiate transmission costs which are classified entirely to capacity. Further studies are required to determine if there are diurnal and seasonal variations in costs on the BPA transmission system. Consequently, the portion of the rate which reflects costs of transmission have been averaged over the entire year.

The main issue concerning the time-differentiated pricing study and its direct use in formulating both the initial proposal of August 1978 and the revised proposal is the treatment of energy costs. Many of the comments contained arguments in support of a seasonal energy differential. The revised study time-differentiates the energy cost on a seasonal basis with the same summer-winter periods as BPA's existing EC–6 schedule. The study that accompanied the initial proposal did not time-differentiate energy costs. The justification for the energy differential is seasonal storage costs. They were identified in the August proposal but were not included because they would have produced a small seasonal energy differential. BPA has included the storage costs as justification for a seasonal differential. This produces a .4 mill differential in the energy charge.

Another issue concerns the selection of the costing/pricing periods. The proposed seasonal periods for capacity are different from BPA's existing seasonal capacity periods. Additionally, BPA's proposed time-of-day rates include a 15-hour peak period. Many customers and customer groups have commented that the proposed daily period is too long to allow for effective shifting of loads to the offpeak period. However, based on additional studies since the August proposal the periods chosen follow closely costing/pricing period criteria.

d. *Long-Run Incremental Cost-of-Service Analysis:* BPA's long-run incremental cost (LRIC) analysis is a

cost-of-service analysis which focuses on incremental costs incurred to meet load growth requirements or the cost saved by not consuming additional increments. This analysis differs from the average cost-of-service analysis whose primary function is to reflect the book costs which BPA is required to recover based on its particular accounting practices. Since a foundation of LRIC analysis is cost causation, an added dimension of time-differentiation of costs is included with the LRIC analysis.

The first step of the LRIC analysis consisted of determining how the system will react to changes in loads and then measuring the corresponding effect on total cost and the resulting incremental cost. This process required the enumeration of BPA's plans for meeting additional demands for energy and generating capacity and included an analysis of BPA's expected expenditures for transmission facilities.

Once incremental costs were identified, periods of time were identified where unit production costs were as homogeneous as possible. These periods, referred to as costing/pricing periods, were established based on load data, operational characteristics, and probabilities of negative margin (PONM). Costing/pricing periods were established to reflect the differences in incremental costs over the load cycle (seasonal and diurnal), given limitations on the number of periods for which rates could be set. Costs were then assigned to costing/pricing periods according to the relationship of PONM's for different periods.

The LRIC analysis provides the basis for incremental cost-based rates. The resultant illustrative rates reflect the incremental costs of generation and transmission. application of LRIC rates would enable customers to make informed consumption decisions based on current costs of additional power use, without regard to BPA's repayment requirements.

Considerable disagreement still exists about how this type of analysis should affect the establishment of rates. At issue are questions relating to measurement of incremental costs, application of incremental cost to rates, and adjustment of such rates to the revenue requirement.

e. *Wholesale Power Rates:* There are several issues related to each of the rate schedules. Each issue is discussed separately by rate schedule. Issues which relate to all of the rate schedules are discussed under a separate heading. Because the proposed rates significantly reflect the results of the average cost-of-service study, and the time-differentiated pricing study, and to some extent the LRIC study, the issues related to those studies which were discussed above are pertinent. However, they are not repeated in this section.

1. *Wholesale Firm Power Rate, EC–8:* There are four major issues associated with this rate schedule.

(a) Method of application of revenues from nonfirm energy sales as a credit against other classes of service.

In the August proposal the revenues generated from nonfirm sales which were above average cost were applied against offpeak capacity costs. The remaining offpeak capacity costs were moved to the energy charge. Most comments addressed the method of application of the credit.

In the revised proposal revenues from Wholesale Nonfirm Energy Rate, H–6, have been credited against the costs derived in the time-differentiation analysis for the offpeak period (the 9-hour period from 10 p.m. to 7 a.m. commencing at 10 p.m. on Monday and ending at 7 a.m. on Saturaday, and the 33-hour period from 10 p.m. on Saturday ending at 7 a.m. on Monday). This adjustment eliminated all offpeak capacity costs.

The credit from the revenues generated from the H–6 rate was applied to capacity costs, primarily to reflect the incremental cost relationship between capacity and energy which resulted from the long-run incremental cost study. The ratio of incremental cost of energy to average cost of energy is higher than the ratio of incremental cost of capacity to average cost of capacity. Offpeak capacity costs were credited first because this it the period where there is the least concern about meeting capacity requirements. Elimination of the offpeak charge also simplifies the demand charge and billing requirements.

These adjustments differ somewhat from the August proposal, where only the revenues in excess of average costs were credited against capacity costs. In the revised proposal all revenues from nonfirm sales are credited against capacity costs.

(b) Appropriateness of time-differentiation of capacity costs and energy costs.

The August proposal contained a seasonally differentiated capacity charge and a daily differentiated capacity charge, but a constant energy charge throughout the year. Most comments addressed the absence of a seasonally differentiated energy charge while remaining comments were related to the justification for daily and seasonal capacity rate differentiation.

The revised EC–8 rate schedule includes time differentiation on a daily and seasonal basis in the capacity charge and seasonal differentiation in the energy charge. The energy charge was not time-differentiated in the August proposal. For an explanation of the time-differentiation analysis refer to IIc. above.

(c) Inclusion of a specific charge for transformation (delivery charge).

The August proposal contained no separate transformation charge.

BPA received comments both for and against continuation of a separate delivery charge.

A separate charge for delivery facilities is not included in the revised schedule. The cost of delivery facilities is included in the transmission component of the demand charge. This is identical to the August proposal and was based on the recognition that many factors influence transmission costs and that a specific charge for delivery facilities is difficult to apply consistently. Other factors that influence transmission cost include location of generation and load, economies of scale, and the value of money at the time of construction of facilities. Eliminating a separate delivery charge for power sales adheres more closely to the postage stamp principle that provides for transmission service anywhere on the system regardless of where facilities were constructed, at the basic rate.

(d) Inclusion of a discount for irrigation sales.

The August proposal contained no specific irrigation discount. Many comments were received that recommended an irrigation discount based on BPA's past practice of including an irrigation discount in the rates and the economic problems farmers are having making their operations profitable.

The revised proposal does not contain a specific discount for irrigation sales. However, the revised proposal does contain a seasonal differential in the energy charge and a lower energy rate than the August proposal.

2. *Reserve Power Rate, EC–9:* There were no major issues associated with this rate schedule.

3. *Wholesale Power Rate for Industrial Firm Power, IF–2:* In addition to time-differentiation, absense of a delivery charge, and the method of crediting of nonfirm revenues, all of which were discussed under the EC–8 rate schedule, the major issue

associated with the IF–2 rate schedule is the question of an availability credit.

The August proposal contained a credit to reflect the restriction rights provided in contracts with direct-service industrial customers. That credit would apply when the customer's load is restricted below 99 percent availability of contract demand. The credit would apply to the demand charge of all power sales to the customer, but would reach a limit once the restriction reached 25 percent of the purchaser's contract demand. In an average water year the credit would have reduced billings to industrial customers by about $40 million.

Most comments received on this issue addressed the size of the credit. Some commented that additional substantiation was required to justify the size of the credit while others indicated the credit did not adequately reflect the value of reserves.

The revised proposal contains an availability credit which is based on the cost of replacement power to firm up the lower three quartiles of the industrial load. This credit would return $26 million to industries in an average water year. The credit applies to all restrictions other than those associated with scheduled maintenance and forced outages.

4. *Wholesale Power Rate for Modified Firm Power, MF–2:* The issues related to this rate schedule are similar to those associated with the IF–2 schedule. However, availability credits do not apply under this rate schedule.

5. *Wholesale Firm Capacity Rate, F–7:* There are two major issues associated with this rate schedule.

(a) The variable charge for capacity which is taken in excess of 6 hours per day.

(b) The contract season charge which is based on alternative cost concepts.

The August proposal included a base charge for capacity which is taken for 6 hours per day and a variable charge established between BPA costs and value of the service provided, based on alternative costs of power. In addition, the variable charge was included to provide encouragement to peaking customers to operate their systems in a manner which will reduce the burdens on the Federal System and optimize overall operations.

In the August proposal the capacity rate for contract season service was established midway between the cost of service and the purchaser's alternative costs. The purpose of the alternative cost principle of this rate is to share the benefits of seasonal capacity between utilities in the Northwest and utilities in the Southwest.

Comments were received on the variable charge which questioned its conformity with provisions in the capacity sales contracts. Comments on the seasonal capacity charge were directed to the applicability of share-the-savings concepts in development of the rate.

The variable charge and the seasonal rate are conceptually unchanged from the August proposal. Under this rate schedule BPA is providing both capacity and load factoring services for utilities. The variable charge for capacity which is taken for more than 6 hours reflects the additional services provided. The charges are different from the August proposal based on new cost data.

6. *Wholesale Nonfirm Energy Rate, H–6:* The August proposal provided separate nonfirm energy rates for sales within the Pacific Northwest region and for sales outside the region. The rate for sales to meet Pacific Northwest nonfirm energy requirements was based on results from the FCRPS cost-of-service analysis. For sales of energy not for use in the Pacific Northwest the rate was flexible within limits, where the lower limit was equal to the rate charged for sale to meet Pacific Northwest nonfirm energy requirements and the ceiling was equal to 15 mills, or halfway between BPA's average cost and the decremental cost of power in the Southwest.

Comments were received by groups outside the Pacific Northwest indicating that the rate was discriminataory because there was a different rate for the Southwest than for the Pacific Northwest.

The revised proposal contains a nonfirm rate which differs from that developed for the August proposal.

The rate schedule has two basic parts. The first is for nonfirm energy sales for displacement of thermal generation. This rate is subdivided into two categories, direct and indirect displacement of thermal resources. If the sale of nonfirm energy displaces a purchaser's thermal resource, the rate is 5 mills per kilowatthour or 50-percent of the decremental cost of the displaced thermal resource, whichever is greater, up to a limit of 20 mills per kilowatthour. The upper limit of 20 mills per kilowatthour is based on 50 percent of the anticipated cost of energy from oil-fired generation during the rate period. The floor of 5 mills is based on the lowest cost thermal resource in the Pacific Northwest. If the purchaser is a Pacific Northwest utility and that utility does not displace a thermal resource but rather sells to another utility outside the Pacific Northwest as defined in Public Law 88–552, the rate will be the lesser of 20 mills per kilowatthour or 50 percent of the sum of the purchaser's rate per kilowatthour for sales of the nonfirm energy for use outside the Pacific Northwest which is generated from the purchaser's own designated thermal resource during the period that purchases of nonfirm energy are made from BPA, and the decremental cost of the purchaser's designated operating resource.

The second category for sales of nonfirm energy is for reservoir filling and emergency uses. This rate is based on the average cost of power to Bonneville. The rate is time-differentiated on a daily basis. The peak rate is equal to the average cost of power. The off-peak rate includes an energy component and a transmission capacity component, but excludes a generation capacity component.

7. *Wholesale Firm Energy Rate, J–2:* There were no major issues associated with this rate. The rate is equal to the EC–8 rate at 100 percent load factor, without seasonal differentiation.

8. *Other Rate Issues:*

(a) *Adjustment for Fixed Rates Revenue Deficiencies:* Contracts for some transactions specify rates that are not subject to change. The cost-of-service analyses for fiscal year 1980 indicates that a revenue deficiency of approximately $52 million would result if this amount were not recovered from other rates. Consequently, all power rate schedules have been adjusted upward to recover the revenue deficiency associated with these fixed rates contracts.

(b) *Rate Increase Impacts On Customers:* The impact of the proposed rate increase varies by customer. Because of different load factors and changes in rate design from those in current rate schedules, some customers and customer groups would experience a different percentage increase in their costs of power purchased from BPA than other customers and customer groups. This is an issue associated with rate continuity and rate stability. The revised proposal tends to move most firm power purchaser's costs per kilowatthour toward an average when compared with current rates. The revised proposal also indicates a lower percentage increase for most customers than would have occurred under the August proposal.

III. Public Meetings

A. *Public Meetings:* BPA will conduct seven public meetings for its customers, consultants, and other interested groups

and individuals to (1) explain the changes incorporated in its revised wholesale power rate proposal and how it differs from the August 25, 1978, initial proposal; (2) present the general findings of the supporting analyses; (3) summarize the results of BPA's evaluation of the public comments received since August 25, 1978; and (4) answer questions and receive oral and written comments. The meetings will be held at the following locations at the times and on the dates specified:

BPA Auditorium, 1002 Northeast Holladay Street, Portland, Oregon, 9 a.m., July 31. Contact: The BPA Area and District Managers shown in this Notice or BPA Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, toll-free numbers for Oregon callers 800–452–8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800–547–6048.

California-Oregon Rooms, Sheraton Portland Hotel, Lloyd Center, Portland, Oregon, 7:30 p.m., August 1. Contact: BPA Area Manager, Room 201, 919 Northeast 19th Avenue, Portland, Oregon 97208, 503–234–3361, ext. 4551.

Room H, Center House, Seattle Center, Seattle, Washington, 7:30 p.m., August 1. Contact: BPA Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Empire Room A, Ridpath Hotel, West 515 Sprague, Spokane, Washington, 7:30 p.m., August 1. Contact: BPA Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington, 99201, 509–456–2500, ext. 2518.

Forum Building, Walla Walla Community College, Walla Walla, Washington, 7:30 p.m., August 1. Contact: BPA Area Manager, West 101 Poplar, Walla Walla, Washington, 99362, 509–525–5500, ext. 701.

Lewis & Clark Room, Colonial Inn, 2301 Colonial Drive, Helena, Montana, 1 p.m., August 1. Contact: BPA District Manager, Box 758, Kalispell, Montana 59901, 406–755–6202.

City Council Chambers, 140 South Capital Avenue, Idaho Falls, Idaho, 1 p.m., August 1. Contact: BPA District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

The meeting scheduled for 9 a.m. on July 31 in Portland will be more technical than the other meetings. The purpose of that meeting is to discuss in greater detail the studies underlying the revised wholesale power rate proposal.

Each meeting will be recorded. The transcripts, documents presented at the meetings, questions and answers, and comments will become part of the Official Record. The Record will be available for review and copying at BPA headquarters, 1002 Northeast Holladay Street, Portland, Oregon.

B. *Procedure:* These meetings will be conducted by a chairperson who will be responsible for an orderly procedure. Persons who wish to speak are requested to contact the BPA official listed for each meeting in advance of the date specified, or, if that is infeasible, to indicate as they register at the meeting that they wish to make an oral presentation. Advance notice will assist the chairperson to prepare a list of participants and allocate time for each oral presentation. Written comments may also be submitted at the meetings for inclusion in the Official Record. The chairperson may question meeting participants and, at his discretion, permit others to exercise the same privilege.

In addition to the opportunities for submitting comments and questions at the public meetings, written comments on the revised wholesale power rate proposal may be sent to BPA from the date of this notice until August 16, 1979, which is 30 days after **Federal Register** publication of the revised proposal. The written comments will become part of the Official Record. Customers and the public are asked to submit 5 copies of any written comments which exceed 10 pages. Written comments should be addressed to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. BPA will evaluate the contents of the Official Record prior to transmitting the final proposed wholesale power rates to the Federal Energy Regulatory Commission (FERC) through the Assistant Secretary for Resource Applications for confirmation and approval by December 20, 1979. The proposed rates submitted to the FERC may vary from those proposed in this Notice as a result of public comments and subsequent staff evaluation.

Dated: July 12, 1979.

Ray Foleen,

Acting Administrator.

[FR Doc. 79–22239 Filed 7–16–79; 11:00 am]

BILLING CODE 6450–01–M

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Federal Register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

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

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

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

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

29214 5–18–79 / Medical devices, procedures to make a device a banned device

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing July 12, 1979

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