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Wednesday
October 17, 1979

Highlights

59963 **Strengthening Developing Institutions Program** HEW/OE announces closing date for transmittal of applications for Fiscal Year 1980; applications by 12-10-79 (2 documents)

60022 **Career Education Incentive Programs** HEW/OE authorizes four new programs of financial assistance (Part II of this issue)

60038 **Chemical Carcinogens** Regulatory Council issues policy and requests comments; comments by 11-15-79 (Part IV of this issue)

60056, 60057, 60061 **Asbestos** CPSC and EPA issue a joint statement on coordination of regulatory activities, and advance notices of proposed rulemaking; comments by 12-17-79 (3 documents) (Part VI of this issue)

60052 **National Voluntary Laboratory Accreditation Program** Commerce/Sec'y announces the granting of accreditation to laboratories for specific tests on thermal insulation materials; accreditation 10-12-79 through 10-11-80 (Part V of this issue)

59914, 60032 **Nondiscrimination on the Basis of Age** EEOC and SBA propose provisions for programs or activities receiving Federal financial assistance; comments by 12-17-79 (Parts I and III of this issue)

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59911 **Whaling** Commerce/NOAA issues rule and closes season for taking of Bowhead whales by Indians, Aleuts, or Eskimos for subsistence purposes; (2 documents)

59897 **Antiboycott and Export Control Compliance** Commerce/ITA issues interim rule, requests comments, and proposes to conduct a public survey regarding administrative proceedings; effective 10–12–79; comments by 12–11–79, and 12–3–79 (2 documents)

59936–59947 59950–59953 **Antipesticide Products** EPA issues specific exemptions for certain pesticides, and approves certain applications, and tolerances; (11 documents)

59914 **Architectural Glazing Materials** CPSC proposes partial revocation of safety standard; comments by 11–26–79, oral presentation 10–23–79

59930 **Cable Royalty Distribution** Copyright Royalty Tribunal requests information; comments by 11–15–79, reply comments by 11–28–79, oral arguments on 12–5–79

59908 **Voting Trusts Rules** ICC issues rules intended to correct abuses of voting trust agreements; effective 12–17–79

59895 **Loan Payments and Collections** USDA revises rules regarding the depositing of payments received in local offices; effective 10–17–79

59895 **Real Property Transactions with Affiliated Persons** FHLBB amends rules; effective 11–16–79

59930 **Certain Man-Made Fiber Apparel Products from the Republic of the Philippines** CITA reduces overshipment charges to level of restraint; effective 10–18–79

59931 **Certain Cotton, Wool and Man-Made Fiber Floor Coverings from India** CITA waives export visa and exempts certification requirements; effective 10–12–79

59985 **Tuna and Tuna Products** Treasury/Customs removes importation prohibition from Peru; effective 10–17–79

60000 **Sunshine Act Meetings**

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60032 **Part III, SBA**
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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

Farmers Home Administration

7 CFR Parts 1864, 1942, 1951, and 1955

Loan Payments and Collections

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations regarding the depositing of loan payments received in local offices. The intended effect of this action is to authorize District Directors and County Supervisors to deposit loan payments in local Treasury General Accounts (TGAs) in locations where Treasury has established such accounts and make appropriate cross-reference changes and minor editorial changes to implement this system. Implementation of this system will result in substantial interest savings to FmHA.

EFFECTIVE DATE: October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. LaVerne A. Isenberg, Phone: 202–447–2852.

SUPPLEMENTARY INFORMATION: Various sections of Part 1864, Subpart A of Part 1942, Subpart B of Part 1951, and Subpart A of Part 1955, Chapter XVIII, Title 7, Code of Federal Regulations are amended. 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. These actions, however, are not published for proposed rulemaking as they are amendments to FmHA internal operating procedures and operations. This determination has been made by LaVerne A. Isenberg.

Accordingly, miscellaneous amendments are made to Chapter XVIII as follows:

PART 1864—DEBT SETTLEMENT

§ 1864.15 [Amended]

1. In § 1864.15(b)(1), first sentence, delete "transmitted to the Federal Reserve Bank or Branch, as required in Part 1862" and insert "deposited in accordance with Subpart B of Part 1951."

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

§ 1942.7 [Amended]

2. In § 1942.7(d), in the last sentence, delete the words "to the Finance Office" and insert a period following the word "funds."

§ 1942.19 [Amended]

3. In § 1942.19(h)(6), in the last sentence, delete "on Form FmHA 451–2, 'Schedule of Remittances' " and insert "or deposit them in a Treasury General Account in accordance with Subpart B of Part 1951 of the chapter."

PART 1951—SERVICING AND COLLECTIONS

Subpart B— Collections

§ 1951.54 [Amended]

4. In § 1951.54, delete the period after the word "collections" and insert "or deposit collections in a local Treasury General Account when authorized to do so by the Farmers Home Administration National Office."

PART 1955—PROPERTY MANAGEMENT

Subpart A—Liquidation of Loans and Acquisition of Property

§ 1955.10 [Amended]

5. In § 1955.10(j)(3)(iii), in the first sentence, insert "deposit them in a Treasury General Account" preceding the word "forward."

6. Section 1955.15(d)(14)(iii) is amended to read as follows:

§ 1955.15 Foreclosure of loans secured by real estate.

* * * * *

(d) *Approval of foreclosure.* * * *

* * * * *

(14) *Leases.* * * *

* * * * *

(iii) The County Supervisor will collect payments due and payable after the date of foreclosure and deposit or transmit them as miscellaneous collections in accordance with the FMI for Form FmHA 451–2, and Subpart B of Part 1951 of this Chapter.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "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 Environment Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required. This final rule has been reviewed under the USDA criteria established to implement Executive Order 12944, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, 14th Street and Independence Avenue, Southwest, Room 6346, Washington, DC 20250.

(7 U.S.C. 1989; (42 U.S.C. 1480; 5 U.S.C. 301); sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: September 21, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FR Doc. 79-32041 Filed 10-16-79; 8:45 am]
BILLING CODE 3410-07-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 79-509]

Real Property Transactions With Affiliated Persons

October 11, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment modifies present regulations which generally prohibit any FSLIC-insured institution or its subsidiary(s) from jointly owning with, purchasing or leasing from, or selling to, any affiliated person of the

insured institution any interest in real property. The amendment permits the Principal Supervisory Agent to approve otherwise prohibited transactions that are found to be fair to, and in the best interests of, the insured institution or subsidiary.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Topelius, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone number: 202–377–6444.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board by Resolution No. 79–344, dated June 14, 1979 (44 FR 36064, dated June 20, 1979), proposed to amend Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.41) which prohibits, with certain limited exceptions, any insured institution or its subsidiary from jointly owning with, purchasing or leasing from, or selling to, any affiliated person any interest in real property.

Experience with § 563.41 since its adoption in August 1976 (Resolution No. 76–588, 41 FR 35812) has indicated to the Board that the regulation is too rigid. Frequently, transactions prohibited by the regulation have appeared from available information to be potentially very advantageous to the insured institution or subsidiary in question. Because § 563.41 includes no provision for waiver of its restrictions, the only alternatives available to the insured institution or subsidiary were to forego the transaction or to require that the affiliated person sever his or her relationship with the institution. Election of the first alternative often deprived an insured institution of an opportunity from which it could derive substantial benefit. Election of the second alternative was frequently impracticable because the affiliated person was an owner, an officer, or an especially valued director of the insured institution.

The Board proposed to amend § 563.41 by providing a general exception for real estate transactions that the Principal Supervisory Agent determines to be fair to, and in the best interests of, the insured institution or subsidiary. As further safeguards against possible abuse, the proposal subjected such transactions to prior written approval of the Principal Supervisory Agent, independent appraisal of the property, and prior approval by a disinterested majority of the institution's board of directors or membership after full disclosure.

The Board requested submission of comments on the proposed amendment by August 20, 1979. Comments were received from nine state-chartered and 14 Federal savings and loan associations and from two trade associations. Twenty-four commenters strongly favored the proposal. Many of the comment letters included brief descriptions of situations in which a transaction, prohibited by the present regulation, would have been clearly beneficial to the association. Commenters noted that the safeguards of Principal Supervisory Agent approval, independent appraisal, and approval by the association's board of directors would guarantee the fairness of the transaction.

One commenter suggested that the Board should carefully monitor approved transactions. Because approved transactions continue to be subject to independent review by the Board's examiners and, often, by state banking authorities, the Board believes that any abuses will be readily detected.

A number of commenters who favored the proposal suggested concurrent amendment of other sections of the Conflict of Interest regulations. Such suggestions are beyond the scope of the current proposal.

One commenter suggested preapproval of any transactions involving the sale of a single-family residence to an affiliated person for use as his or her personal residence. The Board previously considered and rejected preapproval of single-family residence transactions based on the difficulties inherent in monitoring the fairness of insider transactions after the fact. The Board believes that requiring prior review by the Principal Supervisory Agent insures the fairness of the transaction and avoids any appearance of insider advantage.

One commenter expressed opposition to the proposal stating that the amendment would be difficult to administer and of minor benefit. As previously stated, insured institutions that have been forced to forego beneficial transactions regard the amendment very favorably. The Board does not believe that the provisions requiring prior approval are overly burdensome or difficult to administer.

Therefore, the Board has determined to amend § 563.41 as proposed.

Accordingly, the Board hereby amends § 563.41 and Instruction 4(f) of Item 6(e), Form AR, § 563.45, as set forth below.

1. Section 563.41 is amended to read as follows:

§ 563.41 Restrictions on real property transactions with affiliated persons.

(a) *Scope of section.* Section 584.3 of this chapter is controlling with respect to transactions between an insured institution and a holding company.

(b) *Restrictions.* No insured institution or subsidiary thereof may, directly or indirectly, purchase or lease from, jointly own with, or sell to, an affiliated person of the institution any interest in real property unless the transaction is determined by the Principal Supervisory Agent to be fair to, and in the best interests of, the insured institution or subsidiary.

(c) *Conditions.* Transactions permitted under paragraph (b) of this section shall—

(i) Receive prior written approval of the Principal Supervisory Agent indicating that the terms of such transactions are fair to, and in the best interests of, the insured institution or subsidiary;

(ii) Be supported by an independent appraisal not prepared by an affiliated person or employee of the institution or subsidiary; and,

(iii) Be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of directors of the institution or subsidiary (or alternatively by a majority of the total votes eligible to be cast by the voting members of the institution at a meeting called for such purpose, with no votes cast by proxies not solicited for such purpose). Full disclosure must include the affiliated person's source of financing for the real property involved in the transaction, including whether the insured institution or any subsidiary thereof has a deposit relationship with any financial institution or holding company affiliate thereof providing the financing.

2. Instruction 4(f) of § 563.45, Form AR, Item 6(e), is amended to read as follows:

§ 563.45 Disclosure.

* * * * *

Form AR (Annual Report Form)

* * * * *

Item 6

(e) *Transactions where certain persons have a material interest.*

* * * * *

4. No information need be given in answer to this item as to any transaction where

* * * * *

(f) The transaction is in compliance with § 563.41 of this part.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64

Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425(a), 1437). Sec. 5 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR. 1943—48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-32043 Filed 10-16-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 388

Interim Rulemaking and Request for Comment for Revision of Administrative Proceedings for Antiboycott and Export Control Compliance

AGENCY: Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Interim rule.

SUMMARY: The agency is revising the Administrative Proceedings portion of the Export Administration Regulations (Part 388, Title 15, Code of Federal Regulations). The changes are being made in part to implement Title II of the Export Administration Amendments of 1977 (Pub. L. 95–52) which has been incorporated into the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401, *et seq.*). These regulations prescribe the procedures to be followed in proceedings for the imposition of administrative sanctions for violation of the Export Administration Act of 1979, or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C.A. App. 2401, *et seq.* (1979)).

DATES: These rules are effective October 12, 1979 and may be further revised in light of any comments received. Comments must be received by the Department before noon, December 11, 1979.

ADDRESSES: Written comments (six copies when possible) should be sent to: U.S. Department of Commerce, Room 3845, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Oral communications or requests for further information concerning these interim rules should be directed to: Cecil Hunt, Assistant General Counsel for Industry and Trade, 202/377–5301, or Pamela P. Breed, Deputy Assistant General Counsel for Regulatory Compliance, 202/377–5311.

SUPPLEMENTARY INFORMATION: The regulations in this Part prescribe the procedures to be followed in proceedings for the imposition of administrative sanctions for violation of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401, *et seq.*) or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C.A. App. 2401, *et seq.* (1979)) (hereinafter collectively referred to as the "Act," although citations to particular sections of the Act will be to the 1979 Act), or of any regulation, order, license, or other export authorization issued thereunder. The regulations provide for an initial decision by an Administrative Law Judge, as required by the Act in proceedings charging antiboycott violations, and extend this process, except as otherwise set forth, to proceedings charging nonboycott violations. Final disposition in proceedings will be transferred from an Appeals Board to the Assistant Secretary for Industry and Trade who is the responsible agency official. Nothing in this Part shall be construed as applying to or limiting other administrative or enforcement action relating to the Act, including any exercise of the investigative authorities conferred by Section 12(a) of the Act. These regulations are issued subject to the requirement of Section 11(c) of the Act that administrative sanctions for violations of the antiboycott provisions of the Act and regulations be determined only after notice and opportunity for an agency hearing on the record in accordance with the applicable provisions of the Administrative Procedure Act (5 U.S.C. 554–557). The Adminsitrative Procedure Act provisions relating to *ex parte* communications apply to proceedings arising under section 8 of the Act; however, these regulations do not at present apply such provisions to proceedings arising under other provisions of the Act. These regulations shall not be construed to confer any procedural rights or requirements based upon the Administrative Procedure Act to proceedings charging nonboycott violations, except as expressly provided for in Part 388. For proceedings initiated prior to the effective date of these regulations, the public availability of charging letters, answers, decisions, final orders and the complete record for decision will be governed by the applicable regulations in effect at the time the proceedings were initiated.

Because the material contained herein relates to agency procedures pursuant to the Act, the relevant provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date is inapplicable. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views. Comments may take the form of proposed regulatory language, narrative discussion, or any other appropriate format. Comments will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as any further changes are made, however, 15 CFR 388 as set forth hereafter shall remain in effect.

The period for submission of comments will close at noon, December 11, 1979. No comments received after the close of the comment period will be accepted or considered by the Department. Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in any further revision to the regulations.

All public comments to be considered in any further revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments, as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

The public record concerning these regulations will be maintained in the Industry and Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs.

Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3031.

It has been determined that Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), as implemented by Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093 *et seq.*, January 9, 1979), do not apply to this interim regulation issued with respect to military and foreign affairs functions of the United States. These regulations shall be republished after public comments have been considered and any further revisions have been made.

DRAFTING INFORMATION: The principal authors of these rules are Cecil Hunt, Assistant General Counsel for Industry and Trade; Kent N. Knowles, Director, Office of Export Administration; Vincent J. Rocque, Acting Director, Antiboycott Compliance Staff; Pamela P. Breed, Deputy Assistant General Counsel for Regulatory Compliance, and Daniel C. Hurley, Jr., Attorney-Advisor.

Accordingly, the regulations on Administrative Proceedings, 15 CFR Part 388, are revised as set forth below.

Issued in Washington, D.C. on October 12, 1979.

Stanley J. Marcuss,

Acting Assistant Secretary for Industry and Trade.

Sec.

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Authority: Secs. 4, 5, 6, 7, 8, 11, 12 and 21, Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401, *et seq.*; E.O. 12002, 42 F.R. 35623 (1977), 3 CFR 133 (1978); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977), and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).

§ 388.1 Purpose and limitations.

The regulations in this Part prescribe the procedures to be followed in proceedings for the imposition of administrative sanctions for violation of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401, *et seq.*) or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C.A. App. 2401, *et seq.* (1979)) (hereinafter collectively referred to as the "Act," although citations to particular sections of the Act will be to the 1979 Act), or of any regulation, order, license or other authorization issued thereunder. An Administrative Law Judge duly appointed to conduct such proceedings shall preside, except as provided in § 388.23 and for purposes of appeals under § 388.25. Nothing in this Part shall be construed as applying to or limiting other administrative or enforcement action relating to the Act, including any exercise of the investigative authorities conferred by Sec. 12(a) of the Act. These regulations are issued subject to the requirement of Sec. 11(c) of the Act that administrative sanctions for violations of the antiboycott provisions of the Act and Regulations be determined only after notice and opportunity for an agency hearing on the record in accordance with the applicable provisions of the Administrative Procedure Act (5 U.S.C. 554-557). However, these regulations shall not be construed to confer any procedural rights or requirements based upon the Administrative Procedure Act to proceedings not charging antiboycott violations, except as provided in this Part. For proceedings initiated after the effective date of these regulations, all charging letters, answers, decision, final orders and the complete record for decision, except for any restricted access portion segregated pursuant to § 388.21(b), will be made available for inspection.

§ 388.2 Definitions.

As used in this Part:

(a) "Bureau" means the Bureau of Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce, and includes the Office of Export Administration and the Antiboycott Compliance Staff;

(b) "Regulations" means the Export Administration Regulations (15 CFR Parts 368-399), including the Antiboycott Regulations (15 CFR Part 369); and

(c) "Party" shall include the Bureau and any person named as a respondent in a charging letter proposed or issued under this Part.

§ 388.3 Denial of export privileges and imposition of civil penalties.

(a) *Administrative Sanctions.*[1] A respondent who is found to have violated the Act, the Regulations, or any order, license or other authorization issued thereunder, is subject to any or all of the following sanctions in proceedings brought by the Bureau under this Part:

(1) *Suspension or revocation of validated export licenses.* Any outstanding validated export license affecting any transaction in which the respondent may have any interest, direct or indirect, may be suspended or revoked and ordered returned forthwith to the Office of Export Administration;

(2) *General denial of export privileges.* The respondent may be denied the privilege of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, or produced abroad by persons subject to the jurisdiction of the United States, or which are otherwise subject to the Act or the Regulations. Such participation may include:

(i) Participation as a party or as a representative of a party to any validated export license application;

(ii) Participation in the preparing or filing of an application for, or the obtaining or using of, any validated or general export license, reexport authorization, or other export control document;

(iii) Participation in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; and

(iv) Participation in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges may be partial or entire; may be by commodity or geographical area, and may be for any specified period of time.

(3) *Exclusion from practice.* Any respondent acting as attorney, accountant, consultant, freight forwarder, or in any other representative capacity with regard to

[1] Violations of the Act or Regulations may result not only in the imposition of administrative sanctions, but may also be punishable additionally or alternatively by fine or imprisonment as decribed in Sec. 387.1(a) of the Regulations, seizure or forfeiture of property under 22 U.S.C. 401, or any other liability or penalty imposed by law.

any export license application or other matter before the Bureau, may be excluded from any or all such activities before the Bureau.

(4) *Civil penalty.* In addition to any or all of the administrative sanctions described in paragraph (a) (1), (2) and (3) of this section, or in lieu thereof, a civil penalty not to exceed $10,000 per violation may be imposed.

The imposition of any of these sanctions may be suspended pursuant to § 388.16(c).

(b) *Applicability to related persons.* After notice and opportunity for comment, any order under this Part denying or affecting export privileges or excluding a respondent from practice before the Bureau may be made applicable not only to respondent but also, to the extent necessary to prevent evasion, to other persons with whom such respondent may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. In addition, the order may contain provisions implementing § 387.10 of the Regulations.

§ 388.4 Institution of administrative proceedings.

(a) *Charging letters.* The Director of the Office of Export Administration or the Director of the Antiboycott Compliance Staff may, as to their respective areas, initiate administrative proceedings under this Part by issuing a charging letter in the name of the Bureau. The charging letter will state that there is reason to believe that a violation of the Act, the Regulations, or any order, license or other authorization issued thereunder, has occurred. It will set forth the essential facts constituting the alleged violation, refer to the specific regulatory or other provisions involved, and give notice that the respondent, if found to have committed the alleged violation, will be subject to sanctions as provided in § 388.3(a). The charging letter will inform the respondent that failure to answer as provided in § 388.7 may be treated as a default under § 388.8; that he is entitled to a hearing if he files a written demand therefor with his answer, and that if he so desires he may be represented by counsel. A copy of the charging letter shall be filed with the Administrative Law Judge. Charging letters may be amended or supplemented at any time before an answer is filed, or, by leave of the Administrative Law Judge, thereafter.

(b) *Service of Charging Letter on Resident.* A charging letter, or any amendment or supplement thereto, shall be served upon a respondent: (1) By registered or certified mail addressed to him at his last known address; (2) When left with him or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service for respondent; or (3) When left at his last known dwelling with a person of suitable age and discretion then residing therein. Service made in the manner described in paragraph (b) (2) or (3) of this section shall be evidenced by a certificate of service signed by the person making such service, stating the nature of the service and the identity of the person with whom the charging letter was left.

(c) *Service of Charging Letter on Non-resident.* If applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraph (b) inappropriate or ineffective, service of the charging letter on a respondent not a resident of the United States may be made by any method that is permitted by the country in which the respondent resides and satisfies the due process requirements under United States law with respect to notice in administrative proceedings.

§ 388.5 Representation.

A respondent individual may appear and participate in person, a corporation by a duly authorized officer or employee thereof, a partnership by a member thereof, and any respondent may appear by counsel, who shall be a member in good standing of the bar of any state, commonwealth or territory of the United States, or of the District of Columbia. A respondent personally or through counsel shall file notice of appearance with the Administrative Law Judge. The Bureau shall be represented by the Office of Assistant General Counsel for Industry and Trade, U.S. Department of Commerce.

§ 388.6 Filing and service of papers other than charging letter.

(a) *Filing.* All papers to be filed shall be delivered or mailed to the Administrative Law Judge, Room 6627, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Filing by United States mail, first class postage prepaid, or by express or equivalent parcel delivery service, is acceptable. Filing by mail from a foreign country shall be by airmail. A copy of each paper filed shall be simultaneously served on each party.

(b) *Service.* Service shall be made by personal delivery or alternatively by mailing one copy of each paper to each party to be served. Service by delivery service in the manner prescribed in paragraph (a) is acceptable. Service on the Bureau shall be addressed to the Assistant General Counsel for Industry and Trade, Room 3845, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Service on a respondent shall be to the address to which the charging letter was sent or to such other address as respondent may have indicated for this purpose in the answer, other appearance or subsequent communication. When a party has appeared by counsel, service on such counsel shall constitute service on that party.

(c) *Date.* The date of service or filing shall be the day when the matter is deposited in the mail or is delivered in person, or by delivery service, except that the date of service of the charging letter shall be the date of its delivery, or of its attempted delivery if delivery is refused.

(d) *Certificate of Service.* The original of every paper filed and served upon parties shall be endorsed with a certificate of service signed by the party making service, stating the date and manner of service.

§ 388.7 Answer and demand for hearing.

(a) *When to answer.* The respondent must answer the charging letter within 30 days after service unless time is extended pursuant to § 388.20.

(b) *Contents of answer.* An answer must be responsive to the charging letter and must fully set forth the nature of the respondent's defense or defenses. In his answer, the respondent must admit or deny specifically each separate allegation of the charging letter, unless the respondent is without knowledge, in which case his answer shall so state and the statement shall operate as a denial. Failure to deny or controvert a particular allegation will be deemed admission thereof. The answer must also set forth any additional or new matter the respondent believes supports a defense or claim of mitigation. Any defense or partial defense not specifically set forth in the answer shall be deemed waived, and evidence thereon may be refused except upon good cause shown.

(c) *Demand for hearing.* If the respondent desires a hearing, a written demand therefor must be submitted with the answer. Any request by the Bureau for a hearing must be filed with the Administrative Law Judge within 14 days after service of the answer. Failure to make a timely written demand for a hearing shall be deemed a waiver thereof except for good cause shown.

(d) *Documentary evidence.* If the respondent does not demand a hearing, he must file with the answer originals or photocopies of all correspondence,

papers, records, and other documentary evidence having any bearing upon or connection with the matters in issue. If any such materials, including the answer, be in a language other than English, translations into English must be filed at the same time.

§ 388.8 Default.

(a) *General.* If a timely answer is not filed, the Bureau shall file with the Administrative Law Judge proposed findings of fact and conclusions of law and a proposed order together with supporting evidence for the allegations in the charging letter. The Administrative Law Judge may require further submissions and shall issue any order he deems justified by the evidence of record. Any order so issued shall have the same force and effect as an order issued following the disposition of contested charges.

(b) *Petition to set aside default.* (1) *Procedure.* Upon petition filed by a respondent against whom a default order has been issued, which petition is accompanied by an answer meeting the requirements of § 388.7(b), the Administrative Law Judge may, after giving all parties opportunity to comment and for good cause shown, set aside the default and vacate the order entered thereon and resume the proceedings. (2) *Time limits.* A petition under this section must be made within one year of the date of entry of the order which the petition seeks to have vacated or prior to the expiration of any administrative sanctions imposed thereunder, whichever is later.

§ 388.9 Discovery.

(a) *General.* Parties may obtain discovery under these Regulations regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding. The parties are encouraged to engage in voluntary discovery procedures. The Administrative Law Judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. These orders may include limitations on the scope, method, time and place of discovery, and provisions for protecting the confidentiality of classified or otherwise sensitive information.

(b) *Interrogatories and Requests for Admission or Production of Documents.* A party may serve upon any party interrogatories, requests for admission, or requests for production of documents for inspection and copying, and a party concerned may thereafter apply to the Administrative Law Judge for such enforcement or protective order as that party deems warranted with respect to such discovery. The service of a discovery request shall be made at least 20 days prior to the scheduled date of hearing or by such date as the Administrative Law Judge may specify. Copies of interrogatories, requests for admission and requests for production of documents and responses thereto shall be served on all parties. Matters of fact or law of which admission is requested shall be deemed admitted unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the Administrative Law Judge may allow), the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the Administrative Law Judge may order the taking of the testimony of any person by deposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and shall set forth the facts sought to be established through the deposition. The provisions of the Federal Rules of Civil Procedure relating to depositions shall apply to the extent not inconsistent with these Regulations and except as otherwise directed by the Administrative Law Judge or by waiver or agreement of the parties.

(d) *Enforcement.* If a party does not comply with an order of the Administrative Law Judge directing the party to answer designated questions, to produce specified documents or things or to take any other action in response to a proper discovery request, the Administrative Law Judge may make such determination or enter such order in the proceedings as he deems reasonable and appropriate, including striking related charges or defenses in whole or in part or taking particular facts pertaining to the discovery request to which that party failed or refused to respond as being established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In addition, enforcement by a United States district court of appropriate jurisdiction may be sought under Sec. 12(a) of the Act.

§ 388.10 Subpenas.

At the request of any party, the Administrative Law Judge may issue subpoenas requiring the attendance of witnesses at any hearing and the production of such books, records or other documentary or physical evidence as he deems relevant and material to the proceedings, and reasonable in scope.

§ 388.11 Matters protected against disclosure.

In administering the Act, it is necessary for the Bureau to receive and consider information and documents that are sensitive from the standpoint of national security or business confidentiality and are to be protected against disclosure. Accordingly, and without limiting the discretion of the Administrative Law Judge to give effect to any other applicable privilege, it shall be proper for the Administrative Law Judge to limit discovery or introduction of evidence or to issue such protective or other orders as in his judgment may be consistent with the objective of preventing undue disclosure of such sensitive documents of information. Where the Administrative Law Judge determines that documents containing such sensitive matter should be made available to a respondent, he may direct the Bureau to prepare an unclassified and non-sensitive summary or extract of such documents and he may compare such extract or summary with the original to ensure that it is supported by the source document and that it omits only so much as must remain classified or undisclosed. The summary or extract may be admitted as evidence in the record.

If the Administrative Law Judge determines that this procedure is inadequate and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, he may advise the parties and provide opportunity for arrangements to permit a party or a representative to have access to such matter. Such arrangements may include obtaining security clearances or obtaining a determination under Sec. 12(c) of the Act, giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure.

§ 388.12 Prehearing conference.

(a) The Administrative Law Judge, on his own motion or on request of a party, may direct the parties to attend a prehearing conference to consider: (1) Simplification of issues; (2) The necessity or desirability of amendments to pleadings; (3) Obtaining stipulations of fact and of documents to avoid unnecessary proof; or (4) Such other matters as may expedite the disposition of the proceeding. The conference proceedings may be recorded magnetically or taken by a reporter and

transcribed, and will be filed with the Administrative Law Judge. The Administrative Law Judge will prepare a summary of any actions agreed upon or taken at the conference, and will incorporate therein any written stipulations or agreements made by the parties.

(b) If a prehearing conference is impracticable, the Administrative Law Judge may direct the parties to correspond with him to achieve the purposes of such a conference. The Administrative Law Judge, as in subsection (a), will prepare a summary of such correspondence and any actions taken or agreed upon.

§ 388.13 Hearings.

(a) *Scheduling.* The Administrative Law Judge, by agreement with the parties or upon notice to all parties of no less than 30 days, will set the matter for hearing.

(b) *Hearing Procedure.* Hearings shall be conducted by the Administrative Law Judge in a fair and impartial manner. The Administrative Law Judge may limit attendance at any hearing or portion thereof to the parties, their representatives and witnesses if he deems this necessary or advisable in order to protect sensitive matter (see § 388.11) from improper disclosure. The rules of evidence prevailing in courts of law shall not apply, and all evidentiary material deemed by the Administrative Law Judge to be relevant and material to the proceeding and not unduly repetitious will be received and given appropriate weight.

(c) *Testimony and Record.* Witnesses will testify under oath or affirmation. A verbatim record of the hearing and of any other oral proceedings will be taken by reporter or by magnetic recording, transcribed and filed with the Administrative Law Judge. A respondent may examine the transcript and may obtain a copy upon payment of proper costs. Upon such terms as the Administrative Law Judge deems just, he may direct that the testimony of any person be taken by deposition and may admit an affidavit as evidence, provided that affidavits shall have been filed and served on the parties sufficiently in advance of the hearing to permit a party to file and serve an objection thereto on the grounds that it is necessary that the affiant testify at the hearing and be subject to cross-examination.

(d) *Failure to Appear.* If a party fails to appear in person or by counsel at a scheduled hearing, the hearing may nevertheless proceed, and that party's failure to appear will not affect the validity of the hearing or any proceedings or action taken thereafter.

§ 388.14 Proceeding without a hearing.

If the parties have waived a hearing, the case shall be decided on the record by the Administrative Law Judge. Proceeding without a hearing does not relieve the parties from the necessity of proving the facts supporting their charges or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may supplement other documentary evidence in the record. The Administrative Law Judge shall give each party reasonable opportunity to file rebuttal evidence.

§ 388.15 Procedural stipulations.

Unless otherwise ordered, a written stipulation joined in by all parties and filed with the Administrative Law Judge may modify any time limitations, discovery procedures or other prescribed procedures.

§ 388.16 Decision of the Administrative Law Judge.

(a) *Predecisional Matters.* Except insofar as the default procedures of § 388.8 may be applicable, the Administrative Law Judge shall give the parties reasonable opportunity to submit: (1) Exceptions to any ruling by him on the admissibility of evidence proffered at the hearing; (2) Proposed findings of fact and conclusions of law; (3) Supporting legal arguments for the exceptions and proposed findings and conclusions submitted; and (4) A proposed order. Such exceptions, proposed findings and conclusions, arguments in support thereof, and proposed order shall be made a part of the record, together with the Administrative Law Judge's ruling on each.

(b) *Decision and Order.* After considering the entire record in the proceeding, the Administrative Law Judge shall issue a written initial decision. The initial decision shall include findings of fact, conclusions of law, and findings as to whether there has been a violation of the Act, of the Regulations, or of any order, license or other authorization issued thereunder. If the Administrative Law Judge finds that the evidence of record is insufficient to sustain a finding that a violation has occurred with respect to one or more charges, he shall order dismissal of the charges in whole or in part as appropriate. If the Administrative Law Judge finds that one or more violations has been committed, he shall order appropriate disposition of the case. He may issue an order imposing administrative sanctions or civil penalties as provided in § 388.3, or take such other action as he deems appropriate. A copy of the initial decision and order shall be served on each party.

(c) *Suspension of Sanctions.* Any order providing administrative sanctions may provide that the imposition of any sanction shall be suspended in whole or in part upon such terms of probation or other conditions as the Administrative Law Judge may specify. Any such suspension may be modified or revoked by the Administrative Law Judge, or on appeal by the Assistant Secretary of Commerce for Industry and Trade, upon application of the Bureau showing a violation of the probationary terms or other conditions, after service upon the respondent of notice of the application in accordance with the service provisions of § 388.4 and with such opportunity for response as the acting official in his discretion may allow. A copy of any order modifying or revoking suspension shall also be served on the respondent in accordance with the provisions of § 388.4.

(d) *Effect of Initial Decision.* The initial decision and implementing order shall become final upon expiration of the time for filing an appeal unless an appeal shall have been filed pursuant to § 388.25.

§ 388.17 Consent orders.

(a) At any time after the filing of a charging letter but prior to issuance of an initial decision, the parties may submit a proposal to the Administrative Law Judge for a consent order. Filing and service shall be as set forth in Sec. 388.6. The consent proposal shall include proposed findings of fact and conclusions of law and shall be accompanied by a proposed consent order. If the Administrative Law Judge does not approve the proposal, he will notify the parties and the case will proceed as though no consent proposal had been made. If the Administrative Law Judge approves the proposal, he will issue a decision and order on the basis of the proposal or such modification thereof as the parties may have agreed to in writing and the order shall be final.

(b) Cases may also be settled by consent agreement entered into prior to the filing of a charging letter with the Administrative Law Judge. In such event, the proposed charging letter, order and consent agreement shall be submitted for approval and signature to the Deputy Assistant Secretary of Commerce for Trade Regulation, and no action by the Administrative Law Judge shall be required.

(c) Cases settled by consent agreement may not be reopened or appealed.

§ 388.18 Reopening.

A party may petition the Administrative Law Judge within one year of the date of the final decision to reopen proceedings to receive any relevant and material evidence which was unknown or unobtainable at the time the proceedings were held. The petition shall include a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the time the proceedings were held. The Administrative Law Judge shall grant or deny the petition after providing other parties reasonable opportunity to comment. If proceedings are reopened, the Administrative Law Judge may make such arrangements as he deems appropriate for receiving the new evidence and completing the record. Where proceedings have been reopened, the Administrative Law Judge shall issue a new decision and order, reaffirming, vacating or modifying the prior decision and order.

§ 388.19 Temporary denials.

(a) *Denial by charging letter.* A charging letter issued by the Director, Office of Export Administration, may from the date of its issuance suspend or revoke outstanding validated licenses in which the respondent has any interest, direct or indirect, but shall not otherwise deny export privileges to the respondent.

(b) *General Denial of Export Privileges.* The Bureau may request the Administrative Law Judge to issue a temporary denial order on an *ex parte* basis summarily denying any or all of the export privileges specified in § 388.3(a) (1) and (2) to any person against whom a proceeding is brought under this Part, or against whom other administrative or judicial proceedings relating to export control are pending, or who is under investigation for violation of the Act, the Regulations, or any order, license, or other authorization issued thereunder. The Administrative Law Judge may issue such order upon a showing that the order is required in the public interest to permit or facilitate enforcement of the Act, any applicable Executive Order, or the Regulations; to avoid circumvention of such administrative or judicial proceedings; or to permit the completion of such investigation. The order shall be temporary and shall be issued initially only for such period of time, ordinarily not exceeding 30 calendar days, as may be required to complete the administrative or judicial proceedings, or to complete the investigation.

(c) *Motions to Vacate, Extend or Modify.* (1) *Filing.* A party may at any time file a motion asking the Administrative Law Judge to vacate, extend or modify any temporary denial of export privileges contained in any charging letter under § 388.19(a) or in any order issued by the Administrative Law Judge under § 388.19(b). (2) *Hearing.* If requested by one of the parties, the Administrative Law Judge shall schedule a hearing on the motion at the earliest convenient date. The Administrative Law Judge shall receive evidence and hear argument on the motion and shall issue such order disposing of the motion as he deems reasonable and just.

(d) A copy of any temporary denial order issued shall be served upon the respondent in the same manner as provided in § 388.4 for service of a charging letter.

(e) No temporary denial order may extend beyond: (1) the date of issuance of a dispositive order in the proceedings, or (2) six months, whichever is earlier.

§ 388.20 Extension of time.

Upon application by any party before or after expiration of the applicable time limitation, the Administrative Law Judge, for good cause shown, may extend the time within which to prepare and submit an answer to a charging letter or do any other act required by this Part.

§ 388.21 Record for decision.

(a) *General.* The transcript of hearings, exhibits, rulings, orders, all papers and requests filed in the proceedings and, for purposes of any appeal pursuant to § 388.25, the decision of the Administrative Law Judge and such submissions as are provided for by § 388.25, shall constitute the exclusive basis for decision.

(b) *Restricted Access.* On his own motion, or on the motion of any party, the Administrative Law Judge may direct that there be a restricted access portion of the record to contain any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. This portion of the record shall be placed in a separate file and clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings. Such files shall be periodically reviewed so that material that becomes declassified or unrestricted through passage of time may be transferred to the unrestricted portion of the record.

§ 388.22 Availability of documents.

For proceedings initiated on or after October 12, 1979, all charging letters, answers, decisions and final orders disposing of a case, except for any restricted access portion segregated pursuant to § 388.21(b), shall be made available for public inspection in the Industry and Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce. Except for charging letters in proceedings arising under section 8 of the Act, this availability shall commence following the final administration disposition of the case. The complete record for decision, except for any restricted access portion segregated pursuant to § 388.21(b), shall be made availabe for inspection upon request following the final administrative disposition of the case. In addition, all final orders and decisions on appeal shall be published in the **Federal Register.** For proceedings initiated prior to October 12, 1979, the public availability of charging letters, answers, decisions, final orders and the complete record for decision will be governed by the applicable regulations in effect at the time the proceedings were initiated.

§ 388.23 Alternative presiding official.

Except for proceedings arising under section 8 of the Act and the Regulations issued thereunder, the Bureau reserves the right to refer any proceedings under these Regulations to a Hearing Commissioner or other designated impartial Departmental official in lieu of the Administrative Law Judge. In such case, the presiding official shall perform all functions and shall have the powers and duties which are provided to the Administrative Law Judge under this Part.

§ 388.24 Consolidation of proceedings.

On his own motion or on motion of any party, and with reasonable notice to all parties affected, the Administrative Law Judge may consolidate two or more proceedings under this Part involving different respondents, if all parties to the proceedings agree in writing to such consolidation and if the Administrative Law Judge, in his discretion, determines that such consolidation would serve more efficiently to resolve common questions of law or fact raised in such proceedings.

§ 388.25 Appeals.

(a) *Grounds.* Grounds shall be specified. A party may appeal to the Assistant Secretary for Industry and Trade from an order disposing of a proceeding, granting or denying a motion to vacate under § 388.19(c), denying a petition to set aside a default or denying a petition of reopening, on the grounds: (1) That a necessary finding

of fact is omitted, erroneous or unsupported by substantial evidence of record; (2) That a necessary legal conclusion or finding is contrary to law; (3) That prejudicial procedural error occurred, or (4) That the decision or extent of sanctions is arbitrary, capricious or an abuse of discretion. The appeal must specify upon which of these grounds the appeal is based and from what provisions of the order the appeal is taken.

(b) *Filing of Appeal.* An appeal must be filed with the Office of the Assistant Secretary for Industry and Trade, Room 3850, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230, within 30 days after service on the appellant of the order appealed from. If the Assistant Secretary for Industry and Trade cannot act on an appeal for any reason, the Secretary of Commerce may designate another Department of Commerce official to receive and act on the appeal.

(c) *Effect of Appeal.* The taking of an appeal shall not stay the operation of any order, unless the order by its express terms so provides or unless the Assistant Secretary shall grant a stay.

(d) *Appeal Procedure.* The Assistant Secretary normally will not hold hearings or entertain oral argument on appeals. A full written statement in support of the appeal must be filed with the appeal and be simultaneously served on all parties, who shall have 30 days from service to file a reply. The acceptance of further submissions is within the discretion of the Assistant Secretary, but leave will not ordinarily be granted for any submission to be filed more than 30 days after the filing of the reply to the appellant's initial submission.

(e) *Decisions.* The Assistant Secretary shall decide the appeal within 60 days following the last date fixed under subsection (d) or any other date fixed by action of the Assistant Secretary for the filing of a reply or other submission. The decision shall be in writing and shall be accompanied by an order signed by the Assistant Secretary giving effect to the decision. The order may either dispose of the case by confirming, modifying or reversing the order of the Administrative Law Judge or may refer the case back to the Administrative Law Judge for further proceedings.

[FR Doc. 79-32029 Filed 10-16-79; 8:45 am]

BILLING CODE 3510-25-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 9H5198/T51; FRL 1340-5]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Thidiazuron

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

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation related to the experimental use of the defoliant thidiazuron on cotton. The regulation was requested by Nor-Am Agricultural Products, Inc. This rule will permit the marketing of cottonseed hulls while further data is collected on thidiazuron.

EFFECTIVE DATE: Effective on October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Willa Garner, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-1397).

SUPPLEMENTARY INFORMATION: On November 2, 1978, the EPA announced (43 FR 51131) that Nor-Am Agricultural Products, Inc., 1275 Lake Avenue, Woodstock, Il 60098, had filed a food additive petition (FAP 9H5198). This petition proposed that 21 CFR 561 be amended by the establishment of a regulation permitting residues of the herbicide thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline-containing metabolites in or on cottonseed hulls resulting from application of the defoliant to cotton for defoliation of cotton leaves prior to harvest in a proposed experimental program with a tolerance limitation of 0.4 part per million (ppm) in accordance with an experimental use permit (2139-EUP-23) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). No comments were received by the Agency in response to this notice of filing.

For purposes of clarification, the Agency has determined that the regulation should specify that the residues result in or on cottonseed hulls from defoliant use of thidiazuron rather than herbicide use.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the defoliant may be safely used in accordance with the provisions of the experimental use permit which has been issued under FIFRA. It has further been determined that since residues of the pesticide may result in or on cottonseed hulls from the agricultural uses provided for in the experimental use permit, the feed additive regulation should be established and should include a tolerance limitation.

The data submitted in this petition and other relevant material have been evaluated. The data considered in support of the proposed tolerance included radiotracer metabolism studies in cotton plants, rats, lactating goats, and laying hens; rat and mouse acute oral toxicity studies with a median lethal dose (LD_{50}) of 4 grams (g)/kilogram (kg) of body weight (bw) and 5 g/kg bw respectively; a 90-day rat feeding study with a no-observed effect-level (NOEL) of 200 ppm and a 90-day dog feeding study with an NOEL of 300 ppm. The acceptable daily intake (ADI) for humans is 0.0038 mg/kg bw/day based on a 300 ppm NOEL determined in the 90-day dog feeding study and a 2,000-fold safety factor. The requested feed additive tolerance of 0.4 ppm in or on cottonseed hulls will not affect the theoretical maximum residue contribution (TMRC). Proposed temporary tolerances of 0.2 ppm in or on cottonseed, 0.05 ppm in milk and dairy products, 0.1 ppm in eggs and 0.2 ppm in meat, including poultry, yield a TMRC of 0.0676 mg/day/1.5 kg of diet for a 60-kg human, which is equivalent to 30.05% of the ADI.

A regulatory action was pending against thidiazuron based upon Industrial Bio-Test Laboratories (IBT) data of the two 90-day subacute and acute studies, but this was resolved after these data were validated.

The metabolism of thidiazuron is adequately understood, and an adequate analytical method (gas-liquid chromatography using electron capture detection) is available for enforcement purposes.

No permanent tolerances have previously been established for residues of thidiazuron, and no desirable data are lacking from the petition, nor are any other considerations involved in establishing the proposed tolerance. (A related document establishing temporary tolerances for residues of thidiazuron in or on cottonseed at 0.2 ppm; milk at 0.05 ppm; eggs at 0.1; and the meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm appears elsewhere in today's **Federal Register**. The tolerances in eggs; milk; and the meat, fat, and meat byproducts of cattle, etc. are

adequate to cover residues in these tissues resulting from the proposed feed additive use.)

The pesticide is considered useful for the purpose for which a tolerance is sought. Therefore, the regulation establishing a tolerance of 0.4 ppm in or on cottonseed hulls by amending 21 CFR 561 is being promulgated as proposed. Accordingly a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on the date of publication in the **Federal Register**, 21 CFR 561 is amended as set forth below.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348 (c)(1)])

Part 561 is amended by establishing the new section 561.385 to read as follows:

§ 561.385 Thidiazuron.

(a) A tolerance of 0.4 part per million is established for combined residues of thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in or on cottonseed hulls resulting from the preharvest application of the defoliant thidiazuron to cotton in accordance with an experimental use permit that expires July 1, 1980.

(b) Residues in cottonseed hulls not in excess of 0.4 part per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental program will not be considered to be actionable if the defoliant is legally applied during the term of an in accordance with provisions of the experimental use permit and feed additive tolerance.

(c) Nor-Am Agricultural Products, Inc. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 79–32013 Filed 10–16–79; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[Memorandum 79–2]

Appendix to Subpart B—Production or Disclosure; In Response to Subpenas or Demands of Courts or Other Jurisdictions

AGENCY: Department of Justice.

ACTION: Final rule; delegation of authority.

SUMMARY: This memorandum delegates the authority previously granted to the Assistant Attorney General, Antitrust Division, to approve production of material and disclosure of information described in 28 CFR 16.21(a) to the Deputy Assistant Attorney General for Litigation, Antitrust Division.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph H. Widmar, Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530, (202) 633–3543.

Pursuant to the authority vested in me by Subpart B of Part O of Chapter I of Title 28, Code of Federal Regulations, I issue the following memorandum as an appendix to Subpart B of Part 16 of Chapter I of Title 28, Code of Federal Regulations:

Redelegation of Authority to Deputy Assistant Attorney General for Litigation, Antitrust Division, To Authorize Production or Disclosure of Material or Information

1. By virtue of the authority vested in me by § 16.23(b)(1) of Title 28 of the Code of Federal Regulations, the authority delegated to me by that Section to authorize the production of material and disclosure of information described in § 16.21(a) of that Title is hereby redelegated to the Deputy Assistant Attorney General for Litigation of the Antitrust Division.

2. This directive is effective October 15, 1979.

Dated: October 9, 1979.

John H. Shenefield,

Assistant Attorney General, Antitrust Division.

[FR Doc. 79–32035 Filed 10–16–79; 8:45 am]

BILLING CODE 4410–01–M

Federal Prison Industries

28 CFR Part 301

Inmate Accident Compensation

AGENCY: Federal Prison Industries, Justice.

ACTION: Final rule.

SUMMARY: This document amends the language of 28 CFR 301.17(f) to reflect that it is the Claims Examiner who makes the initial determination on a claim for Inmate Accident Compensation. This revision complements final rules on this subject (at 44 FR 34943–44) published June 18, 1979 in the **Federal Register.**

DATE: This amendment is effective October 17, 1979.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 First Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTAL INFORMATION: By virtue of the authority vested in the Attorney General by 18 U.S.C. 4126 and delegated by the Attorney General at 28 CFR 0.99 to the Board of Directors of Federal Prison Industries, Inc., Part 301 of Chapter III of Title 28, Code of Federal Regulations is hereby amended as set forth below. As this amendment places no increased burden on a claimant but is an amendment of internal procedures, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

Federal Prison Industries published in the **Federal Register** June 18, 1979 (at 44 FR 34943–44) final rules which authorized the Claims Examiner to make the initial determination on a claim for inmate accident compensation. To reflect this revision, the June 18, 1979 **Federal Register** amended several sections of 28 CFR Part 301. Section 301.17(f) was inadvertently omitted from this process. The present document amends 28 CFR 301.17(f) to read "the Claims Examiner's initial decision" as opposed to "its [Committee's] original decision".

In consideration of the foregoing, Part 301 of Title 28, Code of Federal Regulations is amended as set forth below. The effective date of this rule is October 17, 1979.

Dated: October 11, 1979.

Norman A. Carlson,

Commissioner, Federal Prison Industries, Inc.

PART 301—INMATE ACCIDENT COMPENSATION

By revising § 301.17(f) to read as follows:

§ 301.17 Conduct of hearing.

* * * * *

(f) The Committee shall mail a written notice of its determination to affirm or amend the Claims Examiner's initial decision with the reasons therefor to the claimant at his or her last known address not later than 30 days after the date of the hearing, unless the Committee needs to make a further investigation as a result of information received at the hearing.

[FR Doc. 79-32040 Filed 10-16-79; 8:45 am]

BILLING CODE 4410-05-M

VETERANS ADMINISTRATION

38 CFR Part 1

Regional Office Committees on Waivers and Compromises

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The regulations are revised for purposes of overall clarification. Revision is also made to reflect additions to, and deletions from, the jurisdiction of the regional office Committees on Waivers and Compromises.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Peter T. Mulhern (047C5), Special Assistant to the Assistant Director for Fiscal Systems, Office of the Controller, Veterans Administration, Washington, D.C. 20420, (202-389-3405).

SUPPLEMENTARY INFORMATION: On page 34975 of the **Federal Register** of June 18, 1979, there was published a notice of proposed regulatory development to amend 38 CFR 1.955-1.970 relating to regional office Committees on Waivers and Compromises.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No written comments have been received. However, the Comptroller General of the United States recently revised 4 CFR Parts 91-93 to permit agencies to deny requests by employees for waiver of erroneous payment of pay and allowances regardless of the aggregate amount. Previously, all requests for waiver of claims aggregating more than $500 were required to be settled by the Comptroller General. Thus, reference to a $500 limit is deleted from § 1.957(a)(1)(iv) and § 1.963a is changed to reflect additional Committee authority resulting from the GAO regulation revision.

The proposed regulations are hereby adopted without change, except for the revisions to §§ 1.957 and 1.963a, and are set forth below:

Approved: October 5, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. The center title is changed and § 1.955 is revised to read as follows: Regional Office Committees on Waivers and Compromises

§ 1.955 Regional Office Committees on Waivers and Compromises.

(a) *Delegation of authority and establishment.* (1) Sections 1.955 et seq. are issued to implement 38 U.S.C. 1820(a)(4) and 3102, 31 U.S.C. 951-953 and 5 U.S.C. 5584. The duties, delegations of authority and all actions required of the Committee on Waivers and Compromises, are to be accomplished under the direction of, and authority vested in, the Director of the regional office.

(2) There is established in each regional office, a Committee on Waivers and Compromises to perform the duties and assume the responsibilities delegated by §§ 1.956 and 1.957. The term "regional office", as used in §§ 1.955 et seq., includes VA Medical and Regional Office Centers and VA Centers where such are established.

(b) *Committee on Waivers and Compromises*—(1) *Composition.* The Committee shall consist of a Chairperson and five members at regional offices having loan guaranty activities or a Chairperson and four members at other regional offices. Members shall be selected so that in each of the debt claims activities of compensation, pension, education, insurance, loan guaranty (at offices having such activities), and finance, there is at least one member with special competence. An alternate Chairperson and an unlimited number of alternate members may be designated and used in place of Committee member(s), or as panel members (see paragraph (c) of this section), whenever needed.

(2) *Selection.* The Director shall designate the employees to serve as Chairperson, members and alternates. Except upon specific authorization of the Chief Benefits Director, when workload warrants a full-time committee, such designation will be part-time additional duty upon call of the Chairperson.

(3) *Control and staff.* The Division Chief of the Fiscal activity is accountable for the administrative control of the Committee functions. The quality control of the Committee and its professional and clerical staff is the responsibility of the Chairperson.

(4) *Overall control.* The Controller is delegated complete management authority, including planning, policy formulation, control, coordination, supervision and evaluation of Committee operations.

(c) *Panels.* When a claim is properly referred to the Committee, the Chairperson shall ordinarily designate from members and/or alternates, a panel of three (of whom the Chairperson may be one), to consider and determine the action to be taken. One person from this panel shall be specially qualified in the program field in which the debt arose. If their panel decision is unanimous, it will be the Committee decision. Otherwise, the case will be decided by the entire membership of the Committee (i.e., either six or five persons as provided in paragraph (b)(1), of this section) and the majority vote of the Committee shall determine the decision. In such cases the Chairperson shall not vote except when necessary on four-member committees to break a tie.

(d) *Single signature authority.* Where a request is for waiver of collection of a debt of $500 or less, exclusive of interest, the Chairperson shall designate from members and/or alternates one person, with special competence in the program area where the debt arose, to consider the request. His/her signature alone to the decision will suffice. In compromise cases, however, three-person panels are always required regardless of the amount of the debt. (38 U.S.C. 210(c)(1))

2. Section 1.956 is amended as follows:

(a) By adding the words "or her" before the word "discretion" and adding the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (b).

(b) By revising the introductory portion of paragraph (a) and paragraph (a)(1)(i) to read as follows:

§ 1.956 Jurisdiction.

(a) The regional office Committees are authorized, except as to determinations under § 2.6(e)(4)(i) of this chapter where applicable, to consider and determine as limited in §§ 1.955 et seq., settlement, compromise and/or waiver concerning the following debts and overpayments:

(1) Arising out of operations of the Department of Veterans Benefits:

(i) Overpayment or erroneous payments of pension, compensation, dependency and indemnity compensation, burial allowances, plot allowance, subsistence allowance, education (includes debts from work study and education loan defaults as well as from other overpayments of educational assistance benefits) or insurance benefits, clothing allowance and automobile or other conveyance and adaptive equipment allowances.

* * * * *

3. Sections 1.957, 1.958, 1.959, and 1.960 are revised to read as follows:

§ 1.957 Committee authority.

(a) *Regional office committee.* On matters covered in § 1.956, the regional office Committee is authorized to determine the following issues:

(1) *Waivers.* A decision may be rendered to grant or deny waiver of collection of a debt in the following overpayment categories:

(i) Loan guaranty program (38 U.S.C. 3102(b)). Committees may consider waiver of the indebtedness of a veteran or spouse resulting from (*a*) the payment of a claim under the guaranty or insurance of loans, (*b*) the liquidation of direct loans, (*c*) the liquidation of loans acquired under § 36.4318, and (*d*) the liquidation of vendee accounts. The phrase "veteran or spouse" includes a veteran-borrower, veteran-transferee, a veteran-purchaser on a vendee account, a former spouse or surviving spouse of a veteran.

(ii) Other than loan guaranty program. (38 U.S.C. 3102(a))

(iii) Services erroneously furnished. (§ 17.62(a))

(iv) Erroneous payment of pay and allowances. (5 U.S.C. 5584)

(2) *Compromises*—(i) *Loan program debts.* Accept or reject a compromise offer irrespective of the amount of the debt (loan guaranty matters under 38 U.S.C. ch. 37, are unlimited as to amount).

(ii) *Other than loan program debts (38 U.S.C. 951–953).* (a) Accept or reject a compromise offer on a debt which exceeds $1,000 but which is not over $20,000 (both amounts exclusive of interest).

(b) Accept or reject a compromise offer on a debt of $1,000 or less, exclusive of interest, which is not disposed of by the Chief, Fiscal activity or the Chief, Centralized Accounts Receivable Division pursuant to paragraph (b) of this section.

(3) *Breached career residency contracts.* Final settlement of any breached career residency contract in which terms are different than those provided in the contract, which will result in the payment of less than liquidated value or in an extension of time in which to pay damages.

(b) *Chief of the Fiscal Activity and the Chief, Centralized Accounts Receivable Division.* The Chief of the Fiscal activity at both Department of Veterans Benefits and Department of Medicine and Surgery offices and the Chief, Centralized Accounts Receivable Division have authority, as to debts arising within their jurisdictions, to:

(1) Suspend or terminate collection action on all debts of $20,000 or less, exclusive of interest.

(2) On other than loan guaranty program debts under 38 U.S.C. chapter 37, accept compromise offers of 50 percent or more of a total debt not in excess of $1,000, exclusive of interest, regardless of whether or not there has been a prior denial of waiver.

(3) On other than loan guaranty program debts under 38 U.S.C. chapter 37, reject any offer of compromise of a total debt not in excess of $1,000, exclusive of interest, regardless of whether or not there has been a prior denial of waiver. (38 U.S.C. 210(c)(1))

§ 1.958 Finality of decisions.

A decision by the regional office Committee operating within the scope of its authority, denying waiver of all or a part of an overpayment is subject to appeal. There is no right of appeal from a decision rejecting a compromise offer. (38 U.S.C. 210(c)(1))

§ 1.959 Records and certificates.

The Chairperson of the Committee shall execute or certify any documents pertaining to its proceedings. He/she will be responsible for maintaining needed records of the transactions of the Committee and preparation of any administrative or other reports which may be required. (38 U.S.C. 210(c)(1))

§ 1.960 Legal and technical assistance.

Legal questions involving a determination under § 2.6(e)(4) of this chapter will be referred to the District Counsel for action in accordance with delegations of the General Counsel, unless there is an existence a General Counsel's opinion or an approved District Counsel's opinion dispositive of the controlling legal principle. As to matters not controlled by § 2.6(e)(4) of this chapter, the Chairperson of the regional office Committee or at his/her instance, a member, may seek and obtain advice from the District Counsel on legal matters within his/her jurisdiction and from other division chiefs in their areas of responsibility, on any matter properly before the Committee. Guidance may also be requested from the Central Office staff. (38 U.S.C. 210(c)(1))

4. Section 1.962 is amended as follows:

(a) By deleting the words "Chief Attorney" and inserting the words "District Counsel" in the third sentence and adding the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (b).

(b) By revising the introductory portion preceding paragraph (a) to read as follows:

§ 1.962 Waiver of overpayments.

The term "overpayment" means payments made and determined to be erroneous, indebtedness resulting from work study and education loan defaults, indebtedness resulting from services erroneously furnished and indebtedness of a veteran-borrower or veteran-transferee under the loan guaranty program or the indebtedness of the spouse under laws administered by the Veterans Administration.

* * * * *

5. Section 1.963 is amended as follows:

(a) By adding the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (c).

(b) By revising paragraph (b) to read as follows:

§ 1.963 Waiver, other than loan guaranty.

* * * * *

(b) *Application.* Request for waiver of an overpayment will be considered only if received within 2 years following the date of notice of the indebtedness by the Veterans Administration to the payee.

* * * * *

6. In §1.963a, paragraphs (b) and (e) are revised to read as follows:

§ 1.963a Waiver; erroneous payment of pay and allowances.

* * * * *

(b) Allowances as they relate to an employee include, but are not limited to, payments for quarters, uniforms, and overseas cost of living expenses, but exclude travel and transportation expenses and relocation allowances. All requests for waiver of salary overpayments and allowances shall be referred for consideration of waiver before any determinations are made as to compromise or suspension or termination of collection action as follows:

(1) If the erroneous payment of pay or allowances was not more than $500 in the aggregate, the request for waiver shall be referred to the Chief of the Fiscal activity for review and necessary development before transmittal to the Committee on Waivers and Compromises for consideration.

(2) If the erroneous payment of pay or allowances was more than $500 in the aggregate:

(i) The Committee on Waivers and Compromises only has authority to deny waiver of collection of the entire amount of the debt.

(ii) Otherwise, the request for waive, after review and necessary development, shall be referred to the VA Controller for transmittal to the General Accounting Office for consideration of full or partial waiver.

* * * * *

(e) There shall be no right of appeal to the Board of Veterans Appeals from a determination made under this section denying a waiver of erroneous payment of pay or allowances. Denial of a waiver of erroneous payment of pay and allowances may be appealed to the General Accounting Office (GAO) in accordance with procedures established by that agency and the Veterans Administration. (38 U.S.C. 210(c)(1))

§ 1.964 [Amended]

7. Section 1.964 is amended by deleting the words "widow (widower)" and "widow or widower" and inserting the words "surviving spouse" in paragraph (c) and inserting the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (f).

§ 1.966 [Amended]

8. By deleting the word "his" and inserting "his/her" in paragraph (a); by deleting the words "field station Committee" and inserting "regional office Committee" in the introductory portion of paragraph (b) and by inserting the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (b)(2)(ii).

9. In § 1.967, paragraph (c) is revised to read as follows:

§ 1.967 Refunds.

* * * * *

(c) Amounts which have been recovered by the U.S. Government prior to the date of receipt by the Veterans Administration of a request for waiver, will not be refunded and will be excluded from waiver. Where recovery is made by offset or recoupment from a check(s) of a running award, the date of recovery is the date of issuance of the check from which the offset is made; or in the case of total recoupment the date of recovery is the date on which the check would have been issued. However, any amounts repaid because of erroneous payment of pay or allowances to employees will be considered for waiver action (regardless of date of request as long as such is timely in accordance with § 1.963a(c)) and, if waived, refund will be made to the employee, provided application for refund is made no later than 2 years following the date of waiver. (38 U.S.C. 210(c)(1))

§ 1.968 [Revoked]

10. Section 1.968 is revoked.

11. Sections 1.969 and 1.970 are revised to read as follows:

§ 1.969 Revision of waiver decisions.

(a) *Jurisdiction.* A decision involving waiver may be reversed or modified on the basis of new and material evidence, fraud, a change in law or interpretation of law specifically stated in a Veterans Administration issue, or clear and unmistakable error shown by the evidence in file at the time the prior decision was rendered by the same or any other regional office Committee.

(b) *Finality of decisions.* Except as provided in paragraph (a) of this section, a decision involving waiver rendered by the Committee having jurisdiction is final, subject to the provisions of:

(1) Sections 3.104(a), 19.153 and 19.154 of this chapter as to finality of decisions;

(2) Section 3.105 (a) and (b) of this chapter as to revision of decisions, except that the Central Office staff may postaudit or make an administrative review of any decision of a regional office Committee;

(3) Sections 3.103, 19.113 and 19.114 of this chapter as to notice of disagreement and the right of appeal;

(4) Section 19.124 of this chapter as to the filing of administrative appeals and the time limits for filing such appeals.

(c) *Difference of opinion.* Where reversal or amendment of a decision involving waiver is authorized under § 3.105(b) of this chapter because of a difference of opinion, the effective date of waiver will be governed by the principle contained in § 3.400(h) of this chapter. (38 U.S.C. 210(c)(1))

§ 1.970 Standards for compromise.

Decisions of the Committee respecting acceptance or rejection of a compromise offer shall be in conformity with the standards in §§ 1.900 through 1.937. In loan guaranty cases the offer of a veteran or other obligor to effect a compromise must relate to an indebtedness established after the liquidation of the security, if any, and shall be reviewed by the Committee. An offer to effect a compromise may be accepted if it is deemed advantageous to the Government. A decision on an offer of compromise may be revised or modified on the basis of any information which would warrant a change in the original decision. (38 U.S.C. 210(c)(1))

[FR Doc. 79-31990 Filed 10-16-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8E2038/R221; FRL 1340-1]

Chlorpyrifos; Tolerances and Exemptions From Tolerances for Pesticide Chemicals

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

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide chlorpyrifos on radishes and rutabagas at 3 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This rule establishes maximum permissible levels for residues of the insecticide chlorpyrifos on radishes and rutabagas.

EFFECTIVE DATE: October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. (202/426-0223).

SUPPLEMENTARY INFORMATION: On August 22, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 49276) in response to a pesticide petition (PP 8E2038) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Hawaii, Idaho, Michigan, New York, Oregon, Utah, Washington, and Wisconsin. This petition proposed that 40 CFR 180.342 be amended by the establishment of tolerances for residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities radishes and rutabagas at 3 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.342 should be adopted without change, and it has been determined that

this regulation will protect the public health.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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 lables these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on the date of publication in the **Federal Register**, Part 180, Subpart C, section 180.342 is amended by alphabetically inserting radishes and rutabagas in the table at 3 ppm as set forth below.

Dated: October, 9, 1979.

Statutory Authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, section 180.342 is amended by alphabetically inserting radishes and rutabagas at 3 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Radishes	3
Rutabagas	3
* * * * *	

[FR Doc. 79-32044 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

45 CFR Part 80

Nondiscrimination in Federally Assisted Programs; Title VI of the Civil Rights Act of 1964; Policy Interpretation

Correction

In FR Doc. 79-31218, published on page 58509, in the issue of Wednesday, October 10, 1979, make the following correction:

On page 58511, in the first column, the heading "§ 80.3 [Amended]. (b)(6) * * *", should have read: "Section 80.3(b)(6)", to reflect the fact that the text following the heading is an "interpretation" not intended to amend the CFR.

FOREIGN CLAIMS SETTLEMENT COMMISSION

45 CFR Part 531

Determination of Claims; Role of Staff Members

AGENCY: Foreign Claims Settlement Commission.

ACTION: Amendment of Regulations.

SUMMARY: The Commission has determined that in the event that only one member of the Commission is available as a result of unfilled vacancies on the Commission, or due to a member's inability to function, a member of the staff may be designated to issue proposed decisions on claims pending before the Commission, effectuating the first step in the adjudication process. Such proposed decisions issued by the staff person shall not be entered as the final decisions without the approval of a quorum of the Commission. The Commission determined that this change in the regulations is important in the management of the business of the Commission to allow its work to continue in an orderly manner in the absence of an appointed quorum. This notice proposes to adopt new paragraphs (b) and (g) of § 531.5 of Part 531 of 45 CFR, consisting of the regulations set forth below, to implement these determinations of the Commission.

DATES: Effective October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Wayland D. McClellan, General Counsel, Foreign Claims Settlement Commission, Room 414, 1111 20th Street, NW., Washington, DC 20579, (202) 653-6166.

The regulations of the Foreign Claims Settlement Commission are amended by revising paragraphs (b) and (g) of § 531.5 of Part 531 of 45 CFR to read as follows:

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

§ 531.5 Procedure for determination of claims.

* * * * *

(b) Without previous hearing, the Commission or a designated member of the staff may issue a Proposed Decision in determination of a claim.

* * * * *

(g) Upon the expiration of 30 days after such service or receipt of notice, if no objection under this section has in the meantime been filed, such proposed staff decision, when approved by the Commission, shall become the Commission's final determination and decision on the claim. A proposed decision approved by the Commission may become final after 30 days without further order or decision by the Commission.

(Sec. 3, 64 Stat. 13, as amended; 22 U.S.C. 1622.)

Dated at Washington, D.C. on October 10, 1979.

Richard W. Yarborough,

Chairman.

Wilfred J. Smith,

Commissioner.

[FR Doc. 79-32056 Filed 10-16-79; 8:45 am]

BILLING CODE 6770-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1013

[Ex Parte No. 332]

Voting Trusts Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final Rules.[1]

SUMMARY: By this notice the Commission is (1) adopting guidelines to assist those preparing voting trust agreements involving securities of regulated carriers; (2) establishing a process for obtaining informal opinions from the Commission regarding the propriety of a proposed agreement; and

[1] The rules originally proposed in this proceeding were to be incorporated into 49 CFR as new Part 1106. That part has since been assigned to another proceeding, and the final rules adopted by this notice are being published as new Part 1013.

(3) requiring that final agreements be filed with the Commission. The rules are intended to correct abuses of voting trust agreements.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275-7245.

SUPPLEMENTARY INFORMATION: The Commission has recognized that the use of an independent voting trust is an acceptable means of acquiring control of publicly held regulated carriers without prior Commission approval pursuant to 49 U.S.C. 11343. This use of voting trusts has been approved by the Federal courts (see *B. F. Goodrich Co.* v. *Northwest Industries, Inc.*, 303 F. Supp. 53, 61 (D. Del. 1969), aff'd 424 F. 2d 1349 *(3rd Cir. 1970)*, cert. denied, 400 U.S. 822 (1971)).

However, the Commission has encountered a number of instances involving improper use of voting trusts. In three major cases, the Commission has granted approval of the application in spite of violations involving improper usage of voting trusts, because the benefits to the public were found to outweigh the harm resulting from the violations. See *East Texas Motor Frt.-Control-Consolidated*, 109 M.C.C. 213 (1969), *Alleghany Corporation-Control and Purchase*, 109 M.C.C. 333 (1970), and *Eastern Freight Ways, Inc.-Invest. of Control*, 122 M.C.C. 143 (1975).

To attempt to deal with the abuses of voting trusts, proposed regulations were drafted and published for public comment (42 FR 39243). The proposed rules required that certain provisions be included in voting trust agreements; that proposed agreements receive Commission review and approval before taking effect; and that certain reports be submitted to the Commission. After review of the comments on the proposed rules and after further staff study, we determined that the comprehensive regulations originally proposed should not be adopted. We have concluded that we should not burden the transportation industry with complex voting trust regulations to combat abuses by a small number of individuals in very limited circumstances.

As a result, we have eliminated many of the provisions originally proposed in this proceeding. Instead of comprehensive mandatory regulations, we are adopting guidelines governing the provisions of voting trust agreements which concern the independence of the trustee and the irrevocability of the trust. The guidelines are intended to inform the public of the provisions which should be included in a voting trust agreement to insure that it is not used to obtain unauthorized control of a regulated carrier.

We are also establishing a voluntary procedure whereby any person considering establishing a voting trust may obtain an informal opinion from the Commission as to whether the proposed agreement conforms to the Commission's guidelines. The Deputy Director of the Office of Proceedings' Section of Finance will review any proposed agreement submitted to the Commission and will issue an informal opinion stating whether the agreement conforms to the Commission's guidelines.

The only mandatory provisions in the proposed rules are the requirements in § 1013.3 (b) and (c) that voting trust agreements be filed with the Commission and that any person required to file Schedule 13D with the Securities and Exchange Commission also file a copy of that schedule with the Commission. (Schedule 13D is used to report the purchase of 5 percent or more of the registered securities of an ICC regulated carrier or of the listed shares of a company controlling 10 percent or more of the stock of an ICC regulated carrier.)

The adoption of these simplified rules should not be viewed as an invitation to abuse voting trust agreements. The Commission intends to monitor closely the continued use of these devices and to take whatever action is necessary, including forced divestiture of stock, in those instances where a voting trust agreement has been used improperly to obtain unauthorized control of a carrier subject to the Commission's jurisdiction.

These regulations are being adopted at a time when there is great concern about the effects of over-regulation on the transportation industry. The Commission is seeking wherever possible to revise its regulations so that all unnecessary restraints and costs are eliminated. At the same time, where problems exist, or where abuses have been perpetrated, which threaten the health of the national transportation system, we must take action. The approach taken here represents the minimal regulatory approach to the problem presented by abuses of voting trust agreements. Whether it succeeds will depend to a great extent on those within and without the transportation industry who use voting trust agreements to acquire interests in regulated carriers.

It is ordered, that 49 CFR Chapter X is amended by the addition of new Part 1013, set forth below.

Note.—This decision does not significantly affect the quality of the human environment, nor is it a major regulatory action under the Energy Policy and Conservation Act of 1975.

These regulations are issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: October 10, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,

Secretary.

Part 1013 is added to read as follows:

PART 1013—GUIDELINES FOR THE PROPER USE OF VOTING TRUSTS

Sec.

1013.1 The independence of the trustee of a voting trust.
1013.2 The irrevocability of the trust.
1013.3 Review and reporting requirements for regulated carriers.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

§ 1013.1 The independence of the trustee of a voting trust.

(a) In order to avoid an unlawful control violation, the independent voting trust should be established before a controlling block of voting securities is purchased.

(b) In voting the trusteed stock, the trustee should maintain complete independence from the creator of the trust (the settlor).

(c) Neither the trustee, the settlor, nor their respective affiliates should have any officers or board members in common or direct business arrangements, other than the voting trust, that could be construed as creating an indicium of control by the settlor over the trustee.

(d) The trustee should not use the voting power of the trust in any way which would create any dependence or intercorporate relationship between the settlor and the carrier whose corporate securities constitute the corpus of the trust.

(e) The trustee should be entitled to receive cash dividends declared and paid upon the trusteed voting stock and turn them over to the settlor. Dividends other than cash should be received and held by the trustee upon the same terms and conditions as the stock which constitutes the corpus of the trust.

(f) If the trustee becomes disqualified because of a violation of the trust agreement or if the trustee resigns, the settlor should appoint a successor trustee within 15 days.

§ 1012.2 The irrevocability of the trust.

(a) The trust and the nomination of the trustee during the term of the trust should be irrevocable.

(b) The trust should remain in effect until certain events, specified in the trust, occur. For example, the trust might

remain in effect until (1) all the deposited stock is sold to a person not affiliated with the settlor or (2) the trustee receives a Commission decision authorizing the settlor to acquire control of the carrier or authorizing the release of the securities for any reason.

(c) The settlor should not be able to control the events terminating the trust except by filing with this Commission an application to control the carrier whose stock is held in trust.

(d) The trust agreement should contain provisions to ensure that no violations of 49 U.S.C. 11343 will result from termination of the trust.

§ 1013.3 Review and reporting requirements for regulated carriers.

(a) Any carrier choosing to utilize a voting trust may voluntarily submit a copy of the voting trust to the Commission for review. The Commission's staff will give an informal, nonbinding opinion as to whether the voting trust effectively insulates the settlor from any violation of Commission policy against unauthorized acquisition of control of a regulated carrier.

(b) Any person who establishes an independent trust for the receipt of the voting stock of carrier must file a copy of the trust, along with any auxiliary or modifying documents, with the Commission.

(c) Any carrier required to file a Schedule 13D with the Securities and Exchange Commission (17 CFR 240.13d–1) which reports the purchase of 5 percent or more of the registered securities of another I.C.C. regulated carrier (or the listed shares of a company controlling 10 percent or more of the stock of an I.C.C. regulated carrier), must simultaneously file a copy of that schedule with this Commission, along with any supplements to that schedule.

(d) Failure to comply with the reporting requirements in paragraphs (b) or (c) of this section will result in denial of the application in which acquisition of control, through the acquisition of the voting stock of another carrier, is sought, unless the applicant shows, by clear and convincing evidence, and the Commission finds, that the failure to comply was unintentional and that denial of the application will substantially and adversely effect the public interest and the national transportation policy.

[FR Doc. 79–31991 Filed 10–16–79; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Bear River Migratory Bird Refuge, Utah; to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to hunting of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: Pheasants, November 3, 1979 through December 2, 1979, inclusive.

FOR FURTHER INFORMATION CONTACT: Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801/744–2488.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasants is permitted on the Bear River Migratory Bird Refuge, Utah, only on the area designated by signs as being open to hunting. This area comprising 12,855 acres, are delineated "Area A" and "Area B" on maps available at the refuge headquarters, Brigham City, Utah and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required in 12 guage guns on all days in both Hunting Area "A" and Area "B" for the entire season. Lead shot may be used in all other guages. The possession of 12 guage lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Roads.* No hunting is permitted from roadways or within 100 yards of any roadway.

(3) *Hunter Check Station.* Each hunter who enters Area "A" or Area "B" is required to register at the checking station and check out before leaving the refuge.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: October 6, 1979.

Ned I. Peabody,

Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

[FR Doc. 79–31996 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 33

Opening of Bear River Migratory Bird Refuge, Utah; to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801/744–2488.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to fishing. These areas comprising 10 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. The use of boats is prohibited below the river control gates at refuge headquarters.

2. Fisherman are required to register at the refuge office upon entering the refuge.

The provisions for this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: October 6, 1979.

Ned I. Peabody,

Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

[FR Doc. 79–31997 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rulemaking.

SUMMARY: At its 30th annual meeting held in London on June 26–30, 1978, the International Whaling Commission ("IWC") adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946 (the "Convention") which established a quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1979 of 18 landed or 27 struck, whichever occurs first. Under the rules of procedure of the IWC, the Schedule to the Convention containing the 1979 quota became effective on October 19, 1978. On March 31, 1979, the regulations governing the 1979 bowhead hunt and establishing village allocations for that hunt became effective. These regulations are located at 44 FR 19408 (April 3, 1979). This rulemaking amends those regulations by adding a provision which allows the Assistant Administrator for Fisheries to close the whaling season when the overall bowhead quota has been reached.

This regulation is being promulgated on an emergency basis for a good cause, inasmuch as the 1979 IWC quota was reached on October 12, 1979, and the failure to amend the regulations to permit the Assistant Administrator for Fisheries to close the whaling season may result in the Alaska Eskimos exceeding the IWC quota and placing the U.S. in violation of its international treaty obligations.

DATES: These regulations will become effective upon issuance.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: (202) 634–7287.

SUPPLEMENTARY INFORMATION: The U.S. government reported to the IWC at the 31st annual meeting in London that as of July 1979, the Alaskan Eskimos had landed 7 bowheads and struck 22. IWC 31/4; SC/31/Doc. 50, page 39. During the period October 1, 1979 to October 12, 1979, the village of Kaktovik landed 5 whales, thus bringing the Alaska Eskimo whaling villages up to their full quota.

50 CFR Part 230 is amended to read as follows:

Section 230.72(f) is revised to read as follows:

§ 230.72 Prohibited acts.

* * * * *

(f) No whaling captain shall continue to whale after, (1) the quota set forth in § 230.74 for his village of domicile is reached, or (2) the license under which he is whaling is suspended as provided in § 230.73(b), or (3) the Assistant Administrator has declared that the whaling season is closed pursuant to § 230.74(c).

* * * * *

Section 230.74 is hereby amended to contain a new paragraph (c), to read as follows:

§ 230.74 Quotas.

* * * * *

(c) The Assistant Administrator of Fisheries shall monitor the bowhead whale hunt and keep tally of the number of bowheads landed and struck. When the number of bowhead whales landed or struck reaches the sum total of the village allocations set forth in § 230.74(a), the Assistant Administrator of Fisheries may declare that the whaling season is closed and there shall be no further whaling during the calendar year 1979. Closure shall become effective upon receipt by the **Federal Register** of notice by the Assistant Administrator of Fisheries that the season has been closed pursuant to this regulation.

* * * * *

[Former paragraph § 230.74(c) shall be renumbered § 230.74(d)].

Issued in Washington, D.C., October 12, 1979

Terry L. Leitzell,

Assistant Administrator for Fisheries.

[FR Doc. 79–32053 Filed 10–12–79; 5:03 pm]

BILLING CODE 3510–22–M

* *

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of closing.

SUMMARY: This notice is filed pursuant to 50 CFR Section 230.74(c), which allows the Assistant Administrator of Fisheries of the National Marine Fisheries Service to close the bowhead whaling season when the quota has been reached by those villages.

DATES: This notice becomes effective upon issuance.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, Telephone: (202) 634–7287.

SUPPLEMENTARY INFORMATION: On October 12, 1979, the National Marine Fisheries Service determined that Kaktovik landed its 5th whale of the 1979 calendar season, bringing the total of entire bowhead whales landed and struck by Alaskan Eskimos for the calendar year 1979 to 12 and 27, respectively. Inasmuch as the quota for calendar year 1979 is 18 landed or 27 struck, whichever occurs first, the 1979 bowhead quota has now been reached.

Pursuant to regulations promulgated at 50 CFR 230.74(c) (October 12, 1979), I am announcing the closure of the bowhead whale fishery for the calendar year 1979. This action is necessary inasmuch as the bowhead quota has reached 12 landed and 27 struck, thus meeting the IWC quota of 18 landed or 27 struck, whichever occurs first.

Issued in Washington, D.C., October 12, 1979.

Terry L. Leitzell,

Assistant Administrator for Fisheries.

[FR Doc. 79-32054 Filed 10-12-79; 5:03 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 202
Wednesday, October 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1079

Milk in the Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions that affect the diversion of milk from pool plants to other plants. The action was requested by a proprietary handler. It would remove for November 1979 one of the limitations on the quantity of milk that may be diverted from the handler's supply plant to pool distributing plants and to nonpool plants. Also, it would remove for the period November 1979 through August 1980 the provision that the milk of a producer must be delivered to the diverting handler's supply plant on one day during the month to qualify the milk of such producter for diversion by that handler.

DATE: Comments are due on or before October 25, 1979.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 202–447–7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the periods indicated:

1. In § 1079.13(d)(1), for the period November 1, 1979, through August 31, 1980, the words "as producer milk".

During the effective period of such suspension, § 1079.13(d)(1) would provide as follows:

"Milk of a dairy farmer shall not be eligible for diversion under this section unless during the month at least one day's production of milk of such dairy farmer is physically received at a pool plant;"

2. In § 1079.13(d)(3), for the month of November 1979, the portion of the last sentence as follows: "50 percent in the months of September through November, and"; and the words "in other months".

During the effective period of such suspension, the last sentence in § 1079.13(d)(3) would provide as follows:

"The total quantity so diverted during the month may not exceed 70 percent of the milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator;"

All persons who want to comment on the proposed suspension should send 2 copies of their comments to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the 8th day after **Federal Register** publication. A relatively limited period for comments is being provided to facilitate the timely suspension of the provisions in question.

The comments that are sent will be made available for public inspection at the Hearing Clerk's office during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

Kraft, Inc., has built a plant at Earlville, Iowa, which it intends to operate as a pool supply plant under the Iowa milk order. There will be no manufacturing facilities at the supply plant. Kraft, Inc., intends to supply milk that will be associated with the supply plant to the pool distributing plant of a proprietary handler in Des Moines, Iowa. The milk would move from farms directly to the Des Moines distributing plant by diversion from the Earlville supply plant. Unless the provision "as producer milk" in § 1079.13(d)(1) is suspended, as proposed, at least one day's production of milk of a dairy farmer would have to be physically received at the supply plant for the milk of such farmer to be eligible for diversion as producer milk to the Des Moines distributing plant. Thus, the milk of each producer that would be involved in such diversion would have to be delivered to the supply plant at least once a month and then reloaded to be delivered to the distributing plant.

The attorney for Kraft, Inc., stated that such requirement should not be necessary to pool the milk of such producers under the Iowa milk order. In his view, the fact that the milk would be received at a pool distributing plant directly from farms should be a sufficient basis for establishing the pooling eligibility for such milk under the Iowa order.

According to Kraft, Inc., if the suspension proposed for § 1079.13(d)(1) is not adopted, extra pumping of milk will be required which, it was stated, tends to deteriorate the quality of the milk so handled. Also, the handler claimed that for the milk that is received at the supply plant, a location adjustment of minus 16 cents a hundredweight would apply in paying producers, when the sole purpose of delivering the milk to the supply plant is to qualify the producers' milk for diversion.

Kraft, Inc., claimed also that by providing 70 percent diversion for November 1979, instead of the 50 percent now provided by the order, economies of about $100 per day could be realized in the cost of marketing the milk involved, considering the hauling distances and the quantity of milk involved. According to the handler, much of the milk would be diverted to the Des Moines distributing plant, while some milk would be diverted to a Kraft, Inc., nonpool manufacturing plant at Galena, Illinois. These economies, according to Kraft, do not include the cost reduction that could be realized in reducing the milk pumping that would be involved if the proposed suspension were adopted.

The petitioner asked that the suspension be effective October 1, 1979. However, such time frame would not provide other handlers in the market an opportunity to adjust their operations for the month of October considering the October issuance date of this proposed suspension notice. Accordingly, the proposed suspension is contemplated to begin November 1, 1979.

The petitioner stated that a suspension is requested due to the

greater time and delay that would be involved in proposing an amendment hearing at this time. Petitioner intends to request an amendment hearing, if the suspension is adopted, to establish the effect of the suspension on a permanent basis.

Signed at Washington, D.C., on October 12, 1979.

Irving W. Thomas,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-32042 Filed 10-16-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32C]

Mandatory Petroleum Price Regulations; Equal Application Rule and Allocation of Increased Cost at Retail Level

AGENCY: Economic Regulatory Administration.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of a public hearing on Mandatory Petroleum Price Regulations; Equal Application Rule and Allocation of Increased Cost at Retail Level scheduled for 9:30 a.m. on October 18, 1979 at the Federal Building, Room 1407, 1960 Stout Street, Denver, Colorado. DOE published the hearing date initially on September 21, 1979 (44 FR 54902). The Washington, D.C. hearing on this matter remains scheduled for October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170.

Chuck Boehl or Ed Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-7200.

William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-31948 Filed 10-16-79; 8:45 am]

BILLING CODE 6450-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Proposed Partial Revocation of Standard Concerning Accelerated Environmental Durability Testing of Plastic Glazing Materials; Withdrawal of Previously Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed partial revocation of rule; Notice of Oral Presentation

SUMMARY: This notice announces procedures for a public meeting at which interested persons will be given an opportunity to orally present data, views, or arguments concerning the proposed partial revocation of the Safety Standard for Architectural Glazing Materials published in the **Federal Register** of September 26, 1979 (44 FR 55386).

DATES: (1) Written comments concerning the proposed partial revocation should be submitted by November 26, 1979. Comments received after this date will be considered to the extent practicable. (2) There will be an opportunity for interested persons to orally present data, views or arguments on October 23, 1979 at 9:30 am.

ADDRESSES: Comments, summaries or copies of testimony should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received material may be seen in, or copies obtained from the Office of the Secretary, 1111 18th Street NW., Third Floor, Washington, D.C.

Hearing location: CPSC Hearing Room, 1111 18th Street NW., Third Floor, (9:30 a.m.), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453; for information on the oral presentation, contact Richard Danca or Sheldon Butts, Office of the Secretary, (202) 634-7700.

SUPPLEMENTARY INFORMATION: The oral presentation will take place on October 23, 1979 and will be conducted in accordance with the Commission's procedural regulations for oral presentations concerning consumer product safety rules, 16 CFR Part 1109. These procedural regulations provide that the purpose of the oral presentation is to give interested persons an opportunity to participate in person in the Commission's rulemaking proceedings. The oral presentation is an informal, non-adversary, legislative-type proceeding at which there are no formal pleadings or adverse parties.

Persons wishing to make oral presentations must have notified the Office of the Secretary in writing on or before October 10, 1979, and must provide the Office of the Secretary with a summary or copy of the testimony to be presented, including an estimate of the amount of time required, on or before October 16, 1979. The oral presentation will begin at 9:30 a.m. in the Commission's hearing room, 3rd floor, 1111 18th Street NW., Washington, D.C.

As indicated in the proposed partial revocation published on September 26, 1979, interested persons also are invited to submit written comments concerning the proposal on or before November 26, 1979.

Dated: October 10, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-32034 Filed 10-16-79; 8:45 am]

BILLING CODE 6355-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1616

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From EEOC

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed regulations.

SUMMARY: These regulations will implement the provisions of the Age Discrimination Act of 1975, as amended. The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. These proposed regulations set forth procedures and policies to assure nondiscrimination because of age in programs and activities receiving Federal financial assistance from EEOC, and define and forbid such discrimination.

DATES: Written comments must be received on or before December 17, 1979. Final regulations will be issued

after consideration of all comments and after coordination with the Department of Health, Education, and Welfare.

ADDRESS: Comments should be addressed to Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2254, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634–6595.

SUPPLEMENTARY INFORMATION: In October 1978 Congress amended the Age Discrimination Act, 42 U.S.C. § 6101 *et seq.* The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions which permit, under limited circumstances, continued use of age distinctions or factors other than age which may have a disproportionate effect on the basis of age. The Act excludes from its coverage most employment practices, except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act. The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 *et seq.* continues to be the Federal statute that prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in CETA public service employment programs, must look to the ADEA for relief rather than the Age Discrimination Act. The Act requires the Secretary of HEW to publish proposed and then final regulations setting standards for other Federal agencies to follow in the development of agency specific regulations on nondiscrimination because of age in programs or activities receiving Federal financial assistance. HEW published its final rules on June 12, 1979, at 44 Fed. Reg. 33768. The Act also requires each agency which provides Federal financial assistance to issue proposed and then final specific regulations. All agency specific regulations must conform to these general regulations and must be approved by the Secretary of HEW.

These regulations are the EEOC's proposed regulations required by the Act. They are patterned after the regulations issued by HEW. Changes were made to meet the specific organizational and programmatic requirements of the Equal Employment Opportunity Commission. The principal Commission programs which involve Federal financial assistance are listed in Appendix C.

These are not significant regulations within the meaning of Executive Order 12044.

The Commission proposes to add a new Part 1616 to title 29 of the Code of Federal Regulations to read as set forth below.

Signed this 4th day of October 1979.

For the Commission.

Eleanor Holmes Norton,

Chair.

PART 1616—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM EEOC

Subpart A—General

Sec.

1616.1 Purpose of EEOC's age discrimination regulations.
1616.2 Applicability of these regulations.
1616.3 Definitions.

Subpart B—Standards for Determining Age Discrimination Standards

1616.4 Standards.

Subpart C—Duties of EEOC Recipients

1616.5 General responsibilities.
1616.6 Notice to subrecipients.
1616.7 Self-evaluation.
1616.8 Information requirements.

Subpart D—Investigation Conciliation, and Enforcement Procedures

1616.9 Compliance reviews.
1616.10 Complaints.
1616.11 Mediation.
1616.12 Investigation.
1616.13 Prohibition against intimidation or retaliation
1616.14 Compliance procedure.
1616.15 Hearings.
1616.16 Decisions, notices and post-termination proceedings.
1616.17 Judicial review.
1616.18 Remedial action by recipients.
1616.19 Alternate funds disbursal procedure.
1616.20 Exhaustion of administrative remedies.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*; 45 C.F.R. 90.

Subpart A—General

§ 1616.1 Purpose of EEOC's age discrimination regulations.

The purpose of these regulations is to set out EEOC's policies and procedures under the Age Discrimination Act of 1975 and the government-wide age discrimination regulations at 45 CFR 90. The Act and the governement-wide regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the government-wide regulations permit Federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and the government-wide regulations.

§ 1616.2 Applicability of these regulations.

These regulations apply to each EEOC recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by EEOC.

§ 1616.3 Definitions.

(a) As used in these regulations, the term: "Act" means the Age Discrimination Act of 1975, as amended. [Title III of Public Law 94–135].

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages [for example, "children," "adult," "older persons," but not "student"].

"Agency" means a Federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract [other than a procurement contract or a contract of insurance or guaranty], or any other arrangement by which the agency provides or otherwise makes available assistance in the form of: (1) Funds; (2) Services of Federal personnel; or (3) Real and personal property or any interest in or use of property, including: (i) Transfers or leases of property for less than fair market value or for reduced consideration; and (ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"United States" means the fifty States, the District of Columbia, Puerto Rico,

the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

These definitions are the same as those used in the government-wide regulations.

(b) As used in these regulation, the term: "EEOC" means the United States Equal Employment Opportunity Commission.

"Chair" means the Chairman of the EEOC or her designee.

"Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

Subpart B—Standards for Determining Age Discrimination

§ 1616.4 Standards.

The standards EEOC uses to determine whether an age distinction or a factor other than age is prohibited are set out in 45 CFR Part 90 (44 FR 33776; June 12, 1979) the government-wide regulations.

Subpart C—Duties of EEOC Recipients

§ 1616.5 General responsibilities.

Each EEOC recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act, the government-wide regulations and these regulations. Each recipient also has responsiblity to maintain records, provide information, and to afford access to its records to the EEOC to the extent required to determine whether it is in compliance with the Act.

§ 1616.6 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from EEOC to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under these regulations.

§ 1616.7 Self-evaluation.

(a) Each recipient employing the equivalent of 15 or more full-time employees shall complete a written self-evaluation of its compliance under the Act within 18 months of the effective date of these regulations.

(b) In its self-evaluation, each recipient shall identify all age distinctions it uses, and justify each age distinction it imposes on the program or activity receiving Federal financial assistance from EEOC.

(c) Each recipient shall take corrective and remedial action whenever a self-evaluation indicates a violation of these regulations and the Act.

(d) Each recipient shall make the self-evaluation available on request to EEOC and to the public for a period of three years following its completion.

§ 1616.8 Information requirements.

Each recipient shall:

(a) Make available upon request to EEOC information necessary to determine whether the recipient is complying with these regulations.

(b) Permit reasonable access by EEOC to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with these regulations.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 1616.9 Compliance reviews.

(a) EEOC may conduct compliance reviews and pre-award reviews of recipients that will permit it to investigate and correct violations of these regulations. EEOC may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of these regulations, EEOC will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, EEOC will arrange for enforcement as described in § 1616.14.

§ 1616.10 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with the Chair of the EEOC, alleging discrimination prohibited by these regulations and the Act. A complainant must file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, EEOC may extend this time limit. The Act excludes from its coverage most employment practices, except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act. The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 *et seq.* continues to be the Federal statutes that prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in CETA public service employment programs, must look to the ADEA for relief rather than the Age Discrimination Act.

(b) EEOC will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint any written statement which identifies the parties involved, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(4) Notifying the complainant and the recipient of their rights under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact EEOC for information and assistance regarding the complaint resolution process.

(c) EEOC will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 1616.11 Mediation.

(a) Referral of complaints for mediation.

§ 90.43 of the government-wide regulations provides that each agency shall promptly refer all complaints which fall within the coverage of the Act to a mediation agency designated by the Secretary of Health, Education and Welfare. EEOC will refer to the mediation agency designated by the Secretary all complaints that:

(1) Fall within the jurisdication of these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before EEOC will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The

mediator shall send a copy of the agreement to EEOC. EEOC will take no further action on the complaint unless the complainant or the recipient fail to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(e) EEOC will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time EEOC receives the complaint; *or*

(2) Prior to the end of that 60 day period, an agreement is reached; *or*

(3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to the EEOC.

§ 1616.12 Investigation.

(a) Informal investigation.

(1) EEOC will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, EEOC will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. EEOC may seek the assistance of any involved State program agency.

(3) EEOC will put any agreement in writing and have it signed by the parties and an authorized official at EEOC.

(4) The settlement shall not affect the operation of any other enforcement effort of EEOC, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) Formal investigation. If EEOC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, EEOC will attempt to obtain voluntary compliance. If EEOC cannot obtain voluntary compliance, it will begin enforcement as described in § 1616.14.

§ 1616.13 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by these regulations or the Act; or

(b) Cooperates in any mediation, investigation, hearing, or other part of EEOC's investigation, conciliation, and enforcement process.

§ 1616.14 Compliance procedure.

(a) EEOC may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from EEOC under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from EEOC.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) EEOC will limit any termination under § 1616.14(a)(1) to the particular recipient and particular program or activity EEOC finds in violation of these regulations. EEOC will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from EEOC.

(c) EEOC will take no action under paragraph (a) of this section until:

(1) The Chair has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Chair has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Chair will file a report whenever any action is taken under paragraph (a) of this section.

(d) The Chair also may defer granting new Federal financial assistance from EEOC to a recipient when a hearing under section 1616.14(a)(1) is initiated.

(1) New Federal financial assistance from EEOC includes all assistance for which EEOC requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from EEOC does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under section 1616.14(a)(1).

(2) EEOC will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under section 1616.14(a)(1). EEOC will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 1616.15 Hearing.

(a) Opportunity for hearing. Whenever an opportunity for a hearing is required by § 1616.14(a)(1), reasonable notice shall be given by certified mail, return receipt requested, to the affected recipient. This notice shall fix a date not less than 3 weeks after the date of receipt of such notice within which the recipient may file with the Chair a request in writing that the matter be scheduled for hearing. A recipient may waive a hearing and submit written information and argument for the record. The failure of a recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under 1616.14(a)(1) and consent to the making of a decision on the basis of such information as is available to the Chair.

(b) Time and place of hearing. Hearings shall be held at the Office of the EEOC in Washington, D.C. unless the Chair determines that the convenience of the recipient or of the EEOC requires that another place be selected. Hearing shall be held at a time fixed by the Chair before a hearing examiner designated in accordance with 5 U.S.C. § 3105 or 5 U.S.C. § 3344.

(c) Right to counsel. In any proceeding under this section, the recipient and the EEOC shall have the right to be represented by counsel.

(d) Procedures, evidence, and record. (1) The hearing, decision, and any administrative review thereof shall be conducted pursuant to these regulations, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied, where reasonably

necessary, by the hearing examiner conducting the hearing. Technical rules of evidence shall not apply to hearings conducted pursuant to these regulations; however, the hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. A transcript shall be made of the oral evidence except to the extent that the substance thereof is stipulated to for the record. All decisions shall be based upon the hearing record.

(2) The hearing record including, but not limited to, the transcript of oral testimony given at the hearing, all documentary evidence introduced under the modified rules of evidence applied by the hearing examiner, and all other exhibits or proof so introduced, accompanied by written recommended findings of fact and conclusions of law, shall be prepared by the hearing examiner and submitted to the Chair for final agency decision.

(e) Consolidated or joint hearings. In cases in which the same or related facts are asserted and which constitute either (1) noncompliance with these regulations with respect to two or more types of Federal financial assistance to which these regulations apply, or (2) non-compliance with both these regulations and the regulations of one or more other Federal departments or agencies issued under the Act, the Chair may, by agreement with such other departments or agencies, provide for conduct of the consolidated or joint hearings, and for the application to such hearings of rules or procedures not inconsistent with these regulations. Final decisions in such cases, insofar as the EEOC is concerned, shall be made in accordance with § 1616.16

1616.16 Decisions, notices and post-termination proceedings.

(a) Procedure when a hearing is held. The hearing examiner shall make a recommended decision, including findings of fact, conclusions of law and a proposed disposition, and a copy of such recommended decision shall be mailed by certified mail (return receipt requested) to the Chair, to the recipient, and the complainant, if any. The recipient and the complainant, if any, may, within 30 days after the receipt of such notice of recommended decision, file with the Chair its exceptions to the recommended decision, and reasons therefore. The Chair may accept, reject, or modify the recommended decision of the hearing examiner. The decision of the Chair shall be the final decision of the agency. A copy of this decision shall be sent to the recipient, and to the complainant, if any.

(b) Procedure when hearing is waived. Whenever a hearing is waived pursuant to section 1616.15(a), a decision shall be made by the Chair on the record and a written copy of such decision shall be sent to the recipient, and to the complainant, if any.

(c) Content of orders. The final decision may provide for termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, to the program involved and contain such terms, conditions, and other provisions as are consistent with and will effectuate the purpose of the Act and these regulations. The final decision may include proivisions designed to assure that no Federal financial assistance will thereafter be extended by the Commission under such program to the recipient determined by such decision to have failed to comply with requirements imposed by or under these regulations unless and until it corrects its non-compliance and satisfies the Chair that it will henceforth fully comply with these regulations.

(d) Post-termination proceedings. (1) A recipient adversely affected by an order issued under paragraph (c) of this section shall be restored to full eligibility to receive Federal financial assistance from the EEOC if it satisfies the terms and conditions of that order for such eligibility and brings itself into compliance with these regulations and the Act, and provides reasonable assurance that it will fully comply with these regulations and the Act in the future. (2) Any recipient adversely affected by an order entered pursuant to paragraph (c) of this section may at any time request the Chair to restore fully its eligibility to receive Federal financial assistance from the EEOC. Any such request shall be supported by information showing that the recipient has met the requirements of paragraph (d)(1) of this section. If the Chair determines that those requirements have been satisfied, the Chair shall restore such eligibility. (3) If the Chair denies any request made under paragraph (d)(2) of this section, the recipient may submit a request in writing for a hearing, specifying why it believes the Chair to have been in error. It shall thereupon be given an expeditious hearing by the Chair, with a decision on the record in accordance with rules or procedures issued by the Chair. The recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of sub-paragraph (d)91) of this section. (4) While proceedings under paragraph (d) of this Section are pending, the sanctions imposed by the order issued under paragraph (c) of this section shall remain in effect.

§ 1616.17 Judicial review.

Action taken under the Act by the Chair of the EEOC is subject to judicial review as provided under the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*

1616.18 Remedial Action by recipients.

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which the EEOC may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(c) If a recipient operating a program which serves the elderly or children in addition to persons of other ages provides special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

1616.19 Alternate funds disbursal procedure.

(a) When EEOC withholds funds from a recipient under these regulations, the Chair may disburse the withheld funds directly to an alternate recipient: any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Chair will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

1616.20 Exhaustion of administrative remedies.

(a) A complainant may file a civil action against a recipient following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and EEOC has made no finding with regard to the complaint; or

(2) EEOC issues any finding in favor of the recipient.

(b) If EEOC fails to make a finding within 180 days or issues a finding in favor of the recipient, EEOC will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his right under § 305(e) of the Act to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary of HEW, the Attorney General of the United States, the Chair of the EEOC, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested, the court in which the complainant will bring the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action may be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Note.—The following Appendices will not appear in the Code of Federal Regulations.

Appendix A

§ 90.12 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in sections 90.14, and 90.15 of these regulations.

(a) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) excluding individuals from, denyng them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 90.13 Definitions of "normal operation" and "statutory objective."

For purposes of sections 90.14, and 90.15, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by section 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by section 90.12 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 90.16 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in sections 90.14 and 90.15 is on the recipient of Federal financial assistance.

Appendix B—EEOC Responsibilities

For the information of recipients and other reviewers, the following is a summary of activities that the Government-wide regulations require of EEOC. The citation in brackets is to the section of the Government-wide regulations which EEOC is summarizing.

(1) Submit its final agency regulations to the Department of Health, Education and Welfare for review no later than 120 days after publication of these proposed regulations. [§ 90.31]

(2) Publish an appendix to its final age discrimination regulations containing a list of each age distinction provided in a Federal statute or in regulations affecting financial assistance administered by EEOC. [§ 90.31]

(3) Review age distinctions EEOC imposes on its recipients to determine whether they are permissible under the Act. EEOC will publish the results of that review for public comment within 12 months after it publishes its final regulations. [§ 90.32]

(4) Cooperate for all compliance and enforcement purposes, with other Federal agencies which provide Federal financial assistance to the same recipient or class of recipients. [§ 90.33]

(5) Submit annual reports to the Secretary of Health, Education and Welfare describing EEOC's efforts to carry out the Act. [§ 90.34]

(6) Attempt to ensure that EEOC recipients comply voluntarily with the Act. [§ 90.42]

(7) Review the effectiveness of these regulations 30 months after they become effective. [§ 90.62]

Appendix C—Current Commission Programs Covered by These Regulations

This Appendix sets forth the principal programs to which the Equal Employment Opportunity Commission provides Federal financial assistance, and which therefore are covered by these regulations. It is not intended to be inclusive.

(1) *Contracts with State Fair Employment Practices Agencies:* The Commission has an ongoing contract program with a number of state and local fair employment practices agencies. Participating agencies receive funding from the Commission in exchange for their agreement to process a certain number of charges of discrimination per year and to improve their charge processing systems. This program strengthens and assists these agencies in carrying out their missions under their respective State or local fair employment practice laws. As a corollary, the Equal Employment Opportunity Commission receives a benefit in that it is able to avoid duplication in its own investigative efforts in cases investigated by the State or local agencies.

(2) *Attorney Loan Fund Program:* Under this program, the Commission makes limited funds available to private attorneys to help defray the plaintiff's costs in bringing litigation under Title VII of the Civil Rights Act of 1964, as amended. Attorneys are required to reimburse the loan fund if they prevail in the law suit and recover their costs.

[3] *Area Bar Center (ABAR) Program:* The Commission has recently instituted a program to establish and fund five "Area Bar Centers" (ABAR's). These centers, to be administered by non-profit and educational organizations, will provide technical assistance and training to attorneys representing plaintiffs in litigation brought under Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Equal Pay Act of 1963 and Section 501 of the Rehabilitation Act of 1973, as amended.

Such cooperative assistance is authorized by Section 705(g)(1) and 709(b) of Title VII of the Civil Rights Act of 1964, as amended, Section 42 U.S.C. 2000e–4(g)(1) and Section 2000e–8(b) respectively. Section 705(g)(1) of Title VII authorizes the Commission to carry forward the underlying purposes of the Title by utilizing State and regional agencies, both public and private, or individuals. Section 709(b) of Title VII specifically authorizes the Commission to cooperate with, share information with, and assist in every way State or local authorities established to foster and enforce the equal employment opportunity rights of all citizens guaranteed by Title VII.

[FR Doc. 79–31953 Filed 10–16–79; 8:45 am]

BILLING CODE 6570–06–M

Notices

Federal Register
Vol. 44, No. 202
Wednesday, October 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

Forest Service

Cancellation To Prepare an Evnironmental Impact Statement

Burlington Northern Inc. Land Exchange—Gallatin, Lake, Lincoln, Sanders, Flathead, Madison, Mineral, Missoula, Park, Ravalli Counties, Montana; Flathead National Forest Timber Management Plan—Flathead, Lake, Lewis and Clark, Lincoln, Missoula, Powell, Glacier, Sanders Counties, Montana; Rocky Mountain Front Land Management Plan—Glacier, Pondera, Teton, Lewis and Clark Counties, Montana; Cedars Land Management Plan—Clearwater, Shoshone Counties, Idaho; Hayden Wolf-Lodge Planning Unit—Kootenai County, Idaho.

The Forest Service, Department of Agriculture, has determined the planning process for the above-listed environmental impact statements will be discontinued.

Comments concerning this notice should be addressed to USDA Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807.

Dated: October 9, 1979.

James E. Reid,

Acting Regional Forester.

[FR Doc. 79-32001 Filed 10-16-79; 8:45 am]

BILLING CODE 3410-11-M

Routt National Forest Grazing Advisory Board; Meeting

The Routt National Forest Grazing Advisory Board will meet November 15, 1979 at the Ramada Inn, 1006 South Lincoln Ave., Steamboat Springs, Colorado. The board will meet at 10 a.m.

The board will meet to: (1) Review range improvement needs on range allotments; (2) Make recommendations on the utilization of range betterment funds; (3) Make recommendations concerning the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend and participate should notify Les Clark or Jim Webb, Routt National Forest (303-879-1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

Lester D. Clark,

Acting Forest Supervisor.

October 3, 1979.

[FR Doc. 79-32000 Filed 10-16-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 32851; Agreement C.A.B. 1175, as amended; Order 79-10-63]

Agreements adopted by the International Air Transport Association relating to the Traffic Conferences

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of October, 1979.

In Order 79-5-113, served May 14, 1979, we narrowed the scope of this proceeding and established further procedures for this docket, including original and reply testimony, a "legislative" hearing, briefs, and oral argument to the Board. According to the procedural schedule announced in that Order, and modified in subsequent Orders,[1] the hearing will begin October 22. This is the procedural order we promised in Order 79-9-99.

We have made arrangements to hold the hearing in the auditorium of the Department of Commerce, located at 14th Street and Constitution Avenue NW.[2] from 9:00 a.m. to 5:30 p.m. on October 22-25. The Friday session, October 26, will be held in Room 1027 at the Board, 1825 Connecticut Avenue NW., Washington, D.C.

At the hearing, witnesses will be arranged into the panels listed in Appendix A, and examined by the Board, staff, and parties according to the schedule in Appendix B. there will be no opening statements, and witnesses will be questioned on the positions taken in their testimony. Only parties sponsoring witnesses at the hearing will be permitted to conduct examination and no party will be allowed to examine its own witness.

We are scheduling fifteen minutes of examination each day by the Department of State, fifteen minutes by the Department of Transportation, and fifteen minutes by the Department of Justice; thirty minutes each day to the proponents of Order 78-6-78,[3] and one hour and fifteen minutes to the opponents of Order 78-6-78.[4] The proponents and opponents of our tentative findings in that Order are encouraged to decide among themselves how they will divide up their alloted cross-examination time. The selection of one representative counsel to conduct the examination on behalf of the group would appear to be both feasible and the most efficient method of using the time available. If the parties are unable to agree on a representative, or some allocation scheme, it will be necessary for us to divide the time equally among all those who wish to conduct examination.

Transcripts will be beneficial to parties who cannot attend the hearing, and to all parties for preparation of their final briefs. We have made arrangements with the Acme Reporting Co. to have transcripts of the hearing available on a 24-hour basis.[5]

In its petition for reconsideration of Order 79-5-113, IATA requested that the Bureaus of Domestic Aviation and International Aviation assume the status of parties in this proceeding. We denied that request, in Order 79-6-65, because we believed that IATA had not demonstrated any fact that would require an alteration in the staff's traditional role as advisors to the Board. We believed then, as we do now, that because of our direct participation in this proceeding there will be no problem of the screening by staff of testimony or briefs in a way that might favor any point of view. However, we believe that it will be useful for all parties to be aware of the opinions on this proceeding held by senior members of the staff.

[1] *See* Orders 79-6-65, 79-7-76, and 79-9-99.

[2] Those attending the hearing should enter the Department of Commerce at the main entrance, located on 14th Street NW., Washington, D.C.

[3] International Airforwarder and Agents Association, The Electronics Shippers, Air Freight Forwarders of America, ACAP, Continental Airlines.

[4] Air Canada, Aer Lingus, British Airways, El Al Israel Airlines, Ltd., IATA.

[5] Acme Reporting Company, 1411 K Street NW., Suite 600, Washington, D.C. 20005.

Accordingly, we are considering various methods of making staff views a part of the formal record in the proceeding. We will announce a decision on this matter next week.

IATA, and other parties, have also requested that the staff or Board Members hold a pre-hearing conference prior to the hearing to discuss the procedural format for the hearing. We believe that this Order adequately covers all procedural aspects of the hearing. However, if any party believes that a conference is still necessary, it should inform the staff by Monday, October 15.[6]

We will issue an Order on Wednesday, October 17, addressing IATA's motion for a pre-hearing conference, and any further communications concerning the need for a conference, and discussing any remaining procedural matters involving the hearing.

Accordingly,

1. Witnesses will be presented at the hearing in the panels listed in Appendix A, and examined by the Board, staff, and parties according to the schedule in Appendix B;

2. The hearing will be conducted according to the procedures discussed in this Order; and

3. We will issue an Order on Wednesday, October 17, dealing with IATA's request for a pre-hearing conference and any other final procedural questions related to the hearing.

This Order shall be served on all parties who have previously filed in this docket and shall be published in the **Federal Register**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member O'Melia who did not participate.

Appendix A

Monday, October 22

Deringer
Bockstiegel
Kauper
Cooper
Hewitt
Hammarskjold
Laker

Tuesday, October 23

Caves
Teneja
Kanafani
Welburn
Cruz
Kamm
Bjorck
Miller

Wednesday, October 24

Lipman
Taylor
deWolf
Ruppenthal
Hope
Paul
Silberman

Thursday, October 25

Trezise
Haimbe
Pellegrini
Medhane
O'Siochru
Ben-Ari

Friday, October 26

Currier
Raven
Blakely
Meiser
McKnight
Rojinsky
Elkins
Cope
Lemaire

Appendix B—Order

Hearing Schedule

8:30—Auditorium will be open
9:00–12:30—Examination by the Board
12:30–1:30—Lunch
1:30–3:00—Examination by staff
3:00–5:30—Examination by the parties

[FR Doc. 79-32050 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[6] All calls should be directed to Paul H. Karlsson (202) 673-5322.

[Docket 33363]

Former Large Irregular Air Service Investigation; Hearing

1. The hearing set upon the application of Lone Star Airways is continued from October 22, 1979 (44 FR 55021, Sept. 24, 1979) to November 27, 1979 at the time and place shown below.

2. The hearing heretofore set for October 19, 1979 on the application of The Phoenix Corporation (44 FR 53556, Sept. 14, 1979) is continued *sine die* subject to further action of the presiding administrative law judge.

3. Hearings herein will be held during the month of November 1979 in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C. at 9:00 A.M. on the following applications: Joseph S. Norman II, November 20, 1979; Lone Star Airways, November 27, 1979.

Dated at Washington, D.C., October 12, 1979.

Rudolf Sobernheim,

Administrative Law Judge.

[FR Doc. 79-32031 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36737; Order 79-10-34]

Eastern Air Lines, Inc., et al.; Increases in Western Hemisphere Fares Proposed; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of September, 1979.

Several carriers have recently filed for increases in Western Hemisphere passenger fares which they state are intended to compensate for fuel cost escalations. Eastern Air Lines, Inc. (Eastern) proposes increases of about six percent in most of its U.S.-Caribbean and Mexico fares, for effect December 5, 1979. ALM Antillean Airlines (ALM) proposes increases of 10 to 12 percent in its U.S.-Netherlands Antilles and Leeward Islands fares, effective October 11, or November 10, 1979. Aerovias Nacionales de Colombia S.A. (Avianca) proposes an 11 percent increase in its U.S.-South America fares effective November 9, 1979, and Linea Aerea Nacional de Chile (Lan Chile) proposes a seven percent increase in its U.S.-South America fares, effective October 10, 1979. Lloyd Aereo Boliviano S.A. (LAB) proposes a seven percent increase in Miami-La Paz fares, effective November 10, 1979.

In Order 79-9-75, September 4, 1979, the Board considered, among other things, a proposal of Pan American World Airways, to restructure its fares. The carrier proposed a 10 percent fuel-related fare increase in conjunction with the "unbundling" of normal economy fares in most of its international markets; it would introduce a new business class fare at levels 15 percent above present normal economy fares; reduce the normal economy fares by five to 25 percent (before the 10 percent fuel-related increase); and eliminate free stopovers and limit free interlining on its new normal economy fares. The Board reviewed Pan American's proposal in conjunction with an intensive international fares study, and based upon the results of that study approved the filing in many markets. Where Pan American's unbundled normal fares were introduced, we permitted other carriers to raise their bundled normal economy fares; where the unbundled fares were not available and we could not otherwise rely on competition to regulate fare levels, we suspended other carriers' increases in full-service economy fares. (See Order 79-9-74, August 31, 1979.)

In the Western Hemisphere, we approved Pan American's proposed normal economy fares in the Caribbean and most Central American markets,

and suspended them in U.S.-South America markets. Pan American had proposed net increases or maintenance of the status quo in U.S.-South America normal economy fares. Our studies indicated the fares were already too high in relation to costs and in the absence of workable competition the carrier's proposal was found to be unacceptable. We also suspended increases in U.S.-South America promotional fares because the existing fares were set at inordinately high levels, and the proposed levels exceeded normal fares available in other international markets. Subsequently the carrier refiled its South America fares to reduce normal economy fares by approximately 3 to 19 percent from present levels in conjunction with unbundling, and to cancel many of the proposed promotional fare increases; and the Board permitted the revised proposal to become effective.

We have considered the subject tariff filings against this background. In the Caribbean, we will permit the increases in first-class and promotional fares to take effect, consistent with our earlier actions this year on fuel-related fare increases in that area.[1] We will also approve full-service normal economy fare increases in markets where the new unbundled fares provide competitive pressure and give the point-to-point, on-demand service passenger a choice of fares. In markets where the unbundled fares are not available, the on-demand passenger is already forced to pay too high a fare, and we will therefore suspend increases in such fares.[2]

Pan American does not serve Colombia, Chile or Bolivia, and there are no unbundled fares available in those markets. Further, the existing fares, now proposed to be increased, are already at high levels.[3] Thus we will suspend all the proposed increases in fares between the United States and Colombia, Chile and Bolivia.

[1] See Orders 79-8-2, July 23, 1979, and 79-7-30, June 26, 1979.

[2] A review of ALM's normal economy fares, for example, shows a fare per mile of 12.6 cents in the Miami-St. Kitts market which ALM proposes to increase to 14.0 cents, compared to Pan American's Houston-Port au Prince fare of 10.8 cents per mile. Fares in many markets are even lower.

[3] For example, Avianca would increase its Miami-Bogota normal economy fare from 12.5 to 13.9 cents per mile, compared to Pan American's new Miami-Caracas fare of 12.3 cents per mile. Lan-Chile's proposed Miami-Santiago normal economy fare, and LAB's Miami-La Paz normal economy fare, would be at 11.0 and 11.3 cents per mile, respectively, compared to Pan American fares in the Rio de Janeiro and Buenos Aires markets of 9.6 and 10.3 cents. Fares in many competitive transatlantic and transpacific markets are even lower.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices A, B, C, D, E and F hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached:

Appendix A—from October 11, 1979, to and including October 10, 1980.

Appendix B—from November 10, 1979, to and including November 9, 1980.

Appendix C—from December 5, 1979, to and including December 4, 1980.

Appendix D—from November 10, 1979, to and including November 9, 1980.

Appendix E—from November 9, 1979, to and including November 8, 1980.

Appendix F—from October 10, 1979, to and including October 9, 1980.

unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [4] and it shall become effective on October 11, 1979 with respect to the tariff provisions in Appendix A, on November 10, 1979 with respect to the tariff provisions in Appendix B, on December 5, 1979 with respect to the tariff provisions in Appendix C, on November 10, 1979, with respect to the tariff provisions in Appendix D, on November 9, 1979, with respect to the tariff provisions in Appendix E and on October 10, 1979, with respect to the tariff provisions in Appendix F; and

4. We shall file copies of this order in the aforesaid tariffs and serve them on ALM Dutch Antillean Airlines, Eastern Air Lines, Inc., Lloyd Aereo Boliviano S.A., Aerovias Nacionales de Colombia, S.A., Linea Aerea Nacional de Chile, and on the Ambassadors of the Netherlands, Peru, Colombia, and Chile in Washington, D.C.

We shall publish this order in the **Federal Register.**

[4] We submitted this order to the President on September 28, 1979.

By the Civil Aeronautics Board.[5]

Phyllis T. Kaylor,

Secretary.

Appendix A—Western Hemisphere Passenger Fares Tariff No. P-NS-4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

All increased Normal Economy (y) class fares applicable to ALM Dutch Antillean Airlines on the following pages:

20th Revised Page 237.
20th Revised Page 238.
28th Revised Page 239.
28th Revised Page 240.
4th Revised Page 252-A.
4th Revised Page 252-B.
3rd Revised Page 260-A.
6th Revised Page 262-A.
6th Revised Page 262-B.

Appendix B—Western Hemisphere Passenger Fares, Tariff No. P-NS-4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

All increased and new Normal Economy (y) class fares applicable to ALM Dutch Antillean Airlines on the following pages:

19th Revised Page 304-B.
Original Page 306-A.
Original Page 306-B.
30th Revised Page 307.
30th Revised Page 308.
20th Revised Page 308-D.
30th Revised Page 308-E.
30th Revised Page 308-F.
14th Revised Page 308-G.
14th Revised Page 308-H.
34th Revised Page 309.
34th Revised Page 310.

Appendix C—Western Hemisphere Passenger Fares, Tariff No. P-NS-4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

In Supplement No. 66

All increased Normal Economy (y) class fares *except:*

(a) Between Caracas, Venezuela and Houston, Texas; Los Angeles, California; Miami, Florida; New York, New York; San Francisco, California; San Juan, Puerto Rico and Washington, D.C.

(b) Between Georgetown, Guyana and New York, New York

(c) Between Port au Prince, Haiti and Houston, Texas; Miami, Florida; and San Francisco, California

(d) Between Port of Spain, Trinidad and Los Angeles, California; New York, New York; and San Francisco, California

(e) Between Santo Domingo, Dominican Republic and Houston, Texas; Miami, Florida; and San Francisco, California

[5] All Members concurred except Member Schaffer who dissented to that part of the order which approves increases in only first-class and promotional fares.

(e) Between points in Guatamala on the one hand, and points in the United States on the other

(f) Between points in Jamaica on the one hand, and points in the United States on the other

Appendix D—Western Hemisphere Passenger Fares, Tariff No. P–NS–4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

On 21st Revised Page 345, the $348.00 Normal Economy (y) class fare and the $278.00 Economy Class Group Affinity fare (YGA25) bearing route number 33 and the $591.00 Economy class Excursion fare (YE28) and the $529.00 Economy Class Group Inclusive Tour fare (YGV) bearing route number 4110 between La Paz, Bolivia and Miami, Florida.

Appendix E—Western Hemisphere Passenger Fares Tariff No. P–NS–4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

In Supplement No. 65

All increased fares between points in the United States on the one hand and points in Columbia on the other *except* all increased First (F) class fares.

Appendix F—Western Hemisphere Passenger Fares, Tariff No. P–NS–4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

In Supplement No. 72

All increased fares between points in the United States on the one hand and points in Chile on the other *except* all increased First (F) class fares.

[FR Doc. 79-32049 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33361, 32460, and 36457]

Former Large Irregular Air Service Investigation (Application of Imperial Airlines, Inc.); Rescheduled Hearing

On August 15, 1979, I issued a Notice of Hearing (44 FR 49000, dated August 21, 1979) setting November 6 1979 as the date for hearing for the above application in Docket 32460. On September 17, 1979, I issued an Amended Notice of Hearing (44 FR 54744, dated September 21, 1979) which stated that Imperial's application in Docket 36457, consolidated into these proceedings by Order 79–9–32, would be heard at the same time.

Notice is now hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above entitled proceeding, previously scheduled for November 6, 1979, will, upon request of the applicant, be held instead on December 3, 1979, at 9:30 a.m. (local time), in Hearing Room 1003 C, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before me. The hearing will cover applications in Docket 32460 and in Docket 36457.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, in Docket 33361 and other documents which are in the dockets of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, October 10, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-32033 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36767]

Miami/New Orleans-San Jose, C.R. Case; Prehearing Conference

Notice is hereby given that a prehearing conference will be convened in the above-entitled matter on October 31, 1979, at 9:30 a.m. (local time), in Room 1003–A, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., with the undersigned presiding.

The Bureau of International Aviation will serve on all parties on or before October 19, 1979, a statement of proposed issues, proposed stipulations, requests for information, and proposed procedural dates. The other parties to this proceeding will serve on each other and the Bureau of International Aviation on or before October 26, 1979, a proposed statement of issues, proposed stipulations, requests for information, and proposed procedural dates, provided that the submissions of other parties are to be restricted to matters upon which they differ with the Bureau's proposals. The parties are directed to adopt the Bureau's lettering and numbering format to facilitate cross-referencing.

Six copies of all submissions will be served on the administrative law judge promptly.

Dated at Washington, D.C., October 11, 1979.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 79-32032 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 36815 and 34725; Order 79-10-45]

Southwest Alaska Service Investigation; Application of Klondike Air, Inc., for Certificate of Public Convenience and Necessity.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of October, 1979

We are instituting the *Southwest Alaska Service Investigation* to undertake a comprehensive inquiry into all aspects of air service in Southwest Alaska, particularly in the area comprising Kodiak Island, Bristol Bay, the Alaska Peninsula and the Aleutian Islands. In order to reach an informed judgment concerning the air transportation needs of the area, we expect the proceeding to evaluate the quality and quantity of past and current air service; whether the subsidy being paid bears a reasonable relationship to the service offered; what service would be offered in the absence of subsidy; the price of air travel as well as all other related aspects of quality such as whether service should be scheduled or on demand, and the need for improved mail service and cargo service. We also expect the record to show all proposals for improvement that may be offered by carrier applicants and incumbents, and requests by civic interests. To this end, we are placing in issue the following broad questions: the certification of new authority, the limitation or conditioning of new or current authority, the modification of existing authority, and the cost-effectiveness of subsidy assistance.

We have received one application for new authority.[1] Klondike Air, Inc., has applied for a number of routes parallel to segments now served by Kodiak-Western Alaska Airlines, Wien Air Alaska, Peninsula Airways and Reeve Aleutian Airways.[2] We will consolidate Klondike's application, and the application of any other carrier wishing authority in the area, into the proceeding.

Our purpose in instituting this investigation may best be understood in light of the current condition of air transportation in Southwest Alaska, and in the Bristol Bay and Kodiak Island areas in particular.

Kodiak Island is situated in the Gulf of Alaska, separated from the mainland of the Peninsula by the Shelikof Strait. Its terrain is rugged and its coast deeply incised by dozens of long bays. On the western side of the Peninsula lies the Bristol Bay area, enclosed on three sides by mountains and on the fourth by the sea. It is marked by numerous rivers and lakes.

Kodiak Island and Bristol Bay have rich fishery resources in their adjacent waters. The activity of the entire region revolves about the commercial and sport fishing industries. Thus, commerce,

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[1] Docket 34725, filed December 18, 1978. This application requests a certificate, and in the alternative, exemption authority.

[2] See fn. 10, *infra.*

travel, and even population, fluctuate according to the fishing seasons and life cycles of salmon, shrimp and crab.

Most of the area's population is located in small villages, often primarily cannery-sites or equipment centers, ranging in size from a few individuals to a few hundred. The size of a village at any given time depends mainly on the stage of the fishing cycle.

These points are dependent on air transportation. Except for occasional barge service, surface transportation is not available throughout most of the area. Residents are served by a number of air taxis. Scheduled service is provided by Kodiak-Western Alaska Airlines, the area's only federally certificated carrier. It has been serving many of the area's towns and villages since 1973 when it was formed by a merger of Kodiak Airways and Western Alaska Airlines.[3] Before the merger, the separate carriers had served Kodiak Island and Bristol Bay, respectively, for over 20 years.

The route structure currently flown by Kodiak-Western is actually two geographically separate systems, divided by the Aleutian Range of mountains, and linked by a single air route from Kodiak to King Salmon. Kodiak-Western provides on-demand as well as scheduled service. It is the only carrier with a Postal Service contract for the carriage of mail to these points.

Kodiak-Western has received subsidy under Section 406 of the Act since it began service. Its subsidy was most recently fixed at $411,283 per year.[4] Over the past 5½ years, it has been paid more than $1,200,000 in subsidy. Throughout this time, it has been plagued by serious financial troubles, particularly in the past four years. We recognized in 1977 that it was on the verge of bankruptcy,[5] and have noted since that its financial condition has remained precarious.[6] However, Kodiak-Western's financial reports indicate that its losses have been reduced somewhat in the past year, and it has even reported an operating profit during two recent quarters.[7] [8]

Kodiak-Western's service has been the source of widespread discontent among the area's residents, who depend on it for mail service. We have received oral or written complaints from six communities served by the carrier, all of them in the Bristol Bay area.[9] Complaints have focused on the reliability of the service, particularly the carrier's handling of the mail.

Three of the other areas included in the geographic scope of this investigation are the Aleutian Islands, the Alaska Peninsula (south of Bristol Bay) and the Kenai Peninsula.

The Peninsula and the Islands together extend in a mountainous arc through 1500 miles of ocean, dividing the Bering Sea from the Pacific. The settlements are isolated, the climate inhospitable, and flying conditions dangerous. The area is served by approximately four or five air taxi operators, and one federally-certificated carrier, Reeve Aleutian Airways.

The Kenai Peninsula, on the other hand, is near Anchorage, the population center of Alaska. Because of its ease of access, it is a favorite area for vacationers. It has several substantial towns, such as Homer, Kenai, Soldotna and Seward. It is served by over a dozen air taxis and a federally-certificated carrier, Wien Air Alaska.

The application filed by Klondike Air requests certification for routes in all of the areas described. Two of the proposed route segments cover points on Kodiak Island and in the Bristol Bay and Alaska Peninsula areas. A third route joins the City of Kodiak and the village of King Slamon, on the Peninsula. Kodiak-Western is the only federally-certificated carrier serving these routes. A fourth route would connect Kodiak with Homer, Anchorage, and Kenai. The fifth proposed segment originates in Kodiak and extends via four points down the Peninsula and into the Aleutian Islands.[10]

Klondike is a small air taxi headquartered in Anchorage. It carries mail in the Upper Cook Inlet area under a contract with the Postal Service. It holds temporary authority from the Alaska Transportation Commission to carry passengers on these routes as space is available. It also holds a Section 418 all-cargo certificate from the Board and is registered as a Part 298 exemption operator.[11]

The proceeding which we are instituting will be called the Southwest Alaska Service Investigation, Docket —— and shall be set for hearing before an Administrative Law Judge.

This order places an issue new or expended authority at the 51 points covered in Kodiak-Western's certificate and Klondike's application and at other points in the region which may be requested and designated by the Administrative Law Judge.[12]

Threshold questions will be whether the grant of new authority requested by Klondike or any other applicants is

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[3] See *Kodiak-Western Alaska Merger Case*, Order 72-11-71, November 16, 1972.

[4] Order 79-4-116, April 19, 1979. We have revised Kodiak-Western's temporary rate three times since it filed its original petition for increased subsidy rates on December 16, 1976, at which time its rate was $129,509.

[5] Order 77-3-136, March 23, 1977, p. 3.

[6] See Orders 77-9-133, 77-10-126 and 78-4-23.

[7] Kodiak-Western reported either an operating loss, a net loss, or both, for calendar years 1976-1978, and for the quarter ending March 31, 1979.

Data from Schedule P1.1, Form 41, may be summarized as follows:

Calendar Year 1976: Operating loss—$101,273. Net loss—$200,860.

Calendar Year 1977: Operating loss—$560,422. Net loss—$10,338.

Calendar Year 1978: Operating loss—$11,441. Net loss—$169,442.

Quarter ending 9/31/78: Operating profit—$90,882. Net profit—$69,019.

Quarter ending 12/31/78: Operating loss—$12,862. Net profit—$9,660.

Quarter ending 3/31/79: Operating loss—$24,000. Net loss—$36,914.

Quarter ending 6/30/79: Operating profit—$11,659.

[8] Since its formation, Kodiak-Western has been owned and controlled by Mr. Robert L. Hall, who was president of Kodiak Airways prior to the merger. However, Mr. Charles F. Willis III has applied for approval of his acquisition of 65 percent of the carrier's stock. (Docket 35394, filed April 24, 1979. In a separate order (Order 79-9-119) we have tentatively approved Mr. Willis acquisition.

[9] Complaints from three of the communities were made by their representatives at the regional meeting on essential air service in Anchorage, May 2, 1979, and at Bethel, August 10, 1979.

[10] The five route segments requested are described as follows:

Route 200: Between the terminal point of Kodiak, and the intermediate points of Old Harbor, Akhiok, Lazy Bay-Alitak, Sitkinak, Moser Bay, Port Bailey, Terror Bay, San Juan, West Point-Village Isle, Karluk, Larsen Bay, and Port Williams, and the terminal point of Kodiak.

Route 300: Between the terminal point of Ugashik, and the intermediate points of Pilot Point, Egegik, King Salmon, South Naknek, Pederson Point, Nakeen, Igiugig, Levelock, Portage Creek, Ekwak, Mnokotak, Twin Hills, and the terminal point of Togiak.

Route 400: Between the terminal point of Kodiak and the terminal point of King Salmon.

Route 500: Between the terminal point of Kodiak with intermediate points at Homer, Anchorage, and the terminal point of Kenai.

Route 600: Between the terminal point of Kodiak with intermediate points at Chignik, Sand Point, Cold Bay, Dutch Harbor, and the terminal point of Kodiak.

[11] Peninsula Airways, of King Salmon, filed an answer in opposition to Klondike's application, and a motion to intervene. Wien, Kodiak-Western and the Alaska Transportation Commission have also filed motions to intervene.

[12] Although the geographic scope of this investigation encompasses Southwest Alaska, we have a particular concern for the regularity and dependability of the service at those points on Kodiak Island and around Bristol Bay served by Kodiak-Western. Also, since we are considering Klondike's application for authority at these points plus six others, a total of 51 points will necessarily be in issue. Carriers or civic parties may request that additional points be placed in issue. The Administrative Law Judge assigned to the case will have discretion to determine which points lie within the geographic region should be included in this proceeding. The question of Klondike's fitness and the issue of whether it should receive passenger and property authority may be severable from other issues, such as its right to carry mail or the questions related to Kodiak-Western Alaska. The judge is invited to consider whether to split the case in some fashion at any stage in the proceeding he considers desirable.

consistent with the public convenience and necessity, and whether the applicants are fit, willing and able. We will inquire into whether any authority granted should include, or be restricted to, authority to carry mail. We will also inquire into the cost-effectiveness of subsidy monies paid to carriers in the region.[13] We expect the case to explore the feasibility of placing restrictions and conditions on new or existing authority, designed to facilitate adequate service with the greatest economy to the taxpayer.[14] [15]

Because this proceeding stems largely from our concern for the quality of service in the areas served by Kodiak-Western, we will consider in issue all aspects of its authority and service at the points at which it is certificated. We will specifically consider possible modification of Kodiak-Western's certificate,[16] and will examine its fitness.[17]

We invite the participation of State and local civic bodies and of interested citizens and organizations. We encourage them to express their views on the issues we will be considering.

Accordingly,

1. Under authority granted by Section 204(a) of the Act, we institute the Southwest Alaska Service Investigation in Docket 36815, and set it for hearing before an Administrative Law Judge at a time and place to be determined later;

2. The application of Klondike Air, Inc. in Docket 34725 is consolidated into the proceeding described paragraph 1;

3. The Southwest Alaska Service Investigation shall include consideration of the following issues:

a. Is it consistent with the public convenience and necessity to grant authority for service between and among the following points: Kodiak, Old Harbor, Akhiok, Lazy Bay-Alitak, Sitkinak, Moser Bay, Olga Bay, Port Bailey, Terror Bay, San Juan, West Point-Village Isle, Karluk, Larsen Bay, Parks, Zachar Bay, Ouzinkie, Port Lions, Kitoi Bay, Port Williams, Ugashik, Pilot Point, Egegik, King Salmon, South Naknek, Naknek, Pederson Point, Nakeen, Igiugig, Levelcok, Portage Creek, Ekwak, New Stuyahok, Koliganek, Tikchik Lake, Golden Horn, Nerka Lake, Wood River, Aleknagik, Dillingham, Queen, Clark's Point, Ekuk, Manokotak, Twin Hills, Togiak, Homer, Anchorage, Kenai, Chignik, Sand Point, Cold Bay, and Dutch Harbor.

b. Is Klondike Air and any other applicant fit, willing, and able to perform properly the air transportation proposed in its application, and to conform with the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations and requirements of the Board?

c. If requested authority is granted, should it include, or be limited to, the authority for the carriage of mail?

d. If the requested authority is granted, what terms, conditions and restrictions, if any, should be imposed?

e. Does the public convenience and necessity require the modification of existing authority under section 401(g) of the Act?

f. Does the public convenience and necessity require the suspension or revocation of the certificate of Kodiak-Western Alaska Airlines?

g. Is Kodiak-Western Alaska fit, willing and able to continue the service which it provides under its certificate of public convenience and necessity, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations and requirements of the Board?

4. Any new authority granted in this proceeding will not be eligible for subsidy under section 406 of the Act.

5. Applications, answers and motions to consolidate shall be filed no later than November 13, 1979;

6. Answers in response to pleadings filed under paragraph 5 shall be filed no later than December 3, 1979;

7. We direct Klondike Air to file by November 13, 1979, an illustrative service schedule, and environmental and energy evaluations as prescribed in Parts 312 and 313 of the Board's Rules;

8. We grant Peninsula Airways' motions to file a late answer and to intervene, grant the motions of Wien Air Alaska, Kodiak-Western Alaskan Airlines and the Alaska Transportation Commission to intervene in this proceeding, and we deny the motion of Klondike Air for an Order to Show Cause; and

9. We will serve a copy of this order on Klondike Air, Kodiak-Western Air Lines, Peninsula Airways, the Alaska Transportation Commission, Wien Air Alaska, Reeve Aleutian Airways, communters and air taxis in the region, the Mayors of all communites listed in footnote 2 of this order, Cook Inlet Regional Corp., Bristol Bay Native Corp., Aleut Corp., Koniag Inc., Calista Corp., Association of Village Council Presidents, Aleutian/Pribilof Island Association, Bristol Bay Native Association, Kodiak Area Native Association, and the Cook Inlet Native Association.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board: [18]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32048 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[13] This should include a comparative analysis of the subsidy needs of applicants and incumbents. It should be understood that any new authority granted in this proceeding will not be eligible for subsidy under section 406 of the Act. However, we expect to use the record developed here in our later consideration of subsidy at points eligible under section 419.

[14] For example, we would like the Administrative Law Judge to consider the comparative merits of requiring service to be provided according to schedule as opposed to allowing it to be provided as demend warrants.

[15] It is not the purpose of this proceeding to make determinations of essential air service (EAS) needs for the points involved, or to hear appeals from our EAS determinations. We are obligated to establish EAS levels for all eligible single-carrier points by October 24, 1979, and we will do so by separate order. Part 323 of the Board's Rules provides for appeal of those decisions through informal conferences.

[16] Certificate modifications are authorized in Section 401(g) of the Act, and Part 302.915 of the Board's Rules. Deletion of points, and removal of authority to carry mail, are examples of modifications which will be considered.

[17] Under the Deregulation Act, fitness is a continuing requirement which may be reexamined. Section 401(r) of the Federal Aviation Act of 1958, as amended.

[18] All Members concurred.

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Restrictive Trade Practices or Boycotts; Proposed Public Survey

SUMMARY: The Department proposes to conduct a public survey under the foreign boycott provisions (Section 369.6(a)(7)) of the Export Administration Regulations (Part 369, Title 15, Code of Federal Regulations).

DATES: Comments must be received by the Department before noon, December 3, 1979.

ADDRESSES: Written comments (four copies when possible) should be sent to: Antiboycott Compliance Staff, Room 3226, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

ORAL COMMUNICATIONS: Oral communications or requests for further information should be directed to: Philip L. Ray Jr., Antiboycott Compliance Staff, Bureau of Trade Regulation, 202-377-2008.

SUPPLEMENTARY INFORMATION: Section 369.6(a)(7) provides that: (7) From time-to-time the Department will survey domestic concerns for purposes of determining the worldwide scope of boycott requests received by their controlled foreign subsidiaries and affiliates with respect to their activities outside United States commerce. This pertains to requests which would be

reportable under this Section but for the fact that the activities to which the requests relate are outside United States commerce. The information requested will include the number and nature of non-reportable boycott requests received, the action(s) requested, the action(s) taken in response and the countries in which the requests originate. The results of such surveys, including the names of those surveyed, will be made public.

This survey of domestic concerns, as it is currently envisioned, would request information, on a voluntary basis, about boycott requests received from January 1, 1980 through December 31, 1980. Domestic concerns should, therefore, keep records of boycott requests received during this period. The Department would survey the 100 domestic concerns having the most business with or in boycotting countries. The results of the survey, including the names of those surveyed, would be published in a manner which would reflect each domestic concern's response. For example,

"ABC company's controlled foreign subsidiaries and affiliates received "x" number of requests of "y" type which they did not have to report because they pertained to transactions outside U.S. commerce. They complied with "m" number of them and refused to comply with "n" number of them. The countries from which the boycott-related requests came were as follows: * * *"

A proposed survey form is attached to this notice.

Although this survey is exempt from the notice and comment procedures of the Administrative Procedure Act, because of the importance and complexity of the issues involved, the Department is inviting public participation in its development. All persons who desire to comment are encouraged to do so at the earliest possible time so as to permit the fullest consideration of their views. Comments may take the form of a discussion of the issues involved in conducting such a survey, alternative survey formats, or any other appropriate form.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the survey.

All public comments to be considered in the development of the survey will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

In the interests of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

The public record concerning the survey will be maintained in the Industry and Trade Administration Freedom of Information Records Inspection Facility, Room 3012, Main Building, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202–377–3031.

The final survey form will be ready for distribution as soon as possible after the comment period closes.

Issued in Washington, D.C. on October 12, 1979.

Stanley J. Marcuss,

Acting Assistant Secretary for Industry and Trade.

BILLING CODE 3510-25-M

DRAFT

U.S. Department of Commerce
Industry and Trade Administration
Washington, D.C. 20230

Period Covered: January 1 - December 31, 1980

SURVEY OF BOYCOTT REQUESTS OUTSIDE UNITED STATES COMMERCE

INSTRUCTIONS: This form should be used to report all boycott requests received by your controlled foreign subsidiaries and affiliates with respect to their activities outside United States commerce. List each activity across the sheet, completing all items that apply. Use as many lines as necessary but separate transactions with a blank line. Assemble original report forms and accompanying documents as a unit and submit intact and unaltered.

Unless indicated otherwise by checkmark in the box below, I (we) certify that the information provided by me (us), regarding quantity, description, and value of any articles, materials and supplies, including related technical data and other information, whether contained in the attached continuation sheet(s) or in any accompanying document(s), is of a commercial or financial nature, and its disclosure to the public would place me (us) at a competitive disadvantage. I (we) further certify that all statements and information contained in this report are true and correct to the best of my (our) knowledge and belief.

Sign here in ink_____ Type or print_____ Date_____

(Signature of person completing report)

(Name and title or person whose signature appears on line to left)

[ ] I (We) authorize public release of all information contained in this report.

If the surveyed firm certifies that disclosure of the information specified above would result in competitive disadvantage, it should assemble and submit a duplicate set of continuation sheet(s) and accompanying document(s), deleting the information on both the continuation sheet(s) and accompanying document(s) that would result in competitive disadvantage if disclosed.

This survey is voluntary, and its results will be made public in aggregate form. The names of those surveyed will also be made public.

Name, Address, and Firm Identification Number of Domestic Concern	Originating Country	Boycotted Country	Date Request Received By Foreign Subsidiary	Requesting Document Code (2 copies of each) U Unwritten (make transcript of request) L Letter of Credit R Requisition/Purchase Order/ Accepted Contract/Shipping Instruction B Bid Invitations/tender/ proposal trade opportunity Q Questionnaire 9 Other written	Decision on Request Code R Have not taken and will not take the action requested T Have taken or will take the action requested	Your Reference Number Of Accompanying Document(s)	Commodities or Technical Data (Description, quantity, and value to nearest whole dollar)

DRAFT

[FR Doc. 79-32028 Filed 10-16-79; 8:45 am]
BILLING CODE 3510-25-C

National Bureau of Standards

Appointment of Additional Member to Limited Performance Review Board

In a notice published in the **Federal Register** on October 5, 1979 (44 FR 57462), announcement was made of the establishment of the Limited Performance Review Board (LPRB) by the Director of the National Bureau of Standards (NBS), as Appointing Authority for the Senior Executive Service at NBS. That notice also announced the purpose of the LPRB, the appointment of two of its initial members, and the terms of such members. In addition, the notice pointed out that upon the appointment of the third member to complete the initial membership of the LPRB, such appointment would be announced in the **Federal Register.**

This notice announces the appointment of the third member to the NBS LPRB, whose name, title and term is set out below.

Dr. James S. Kane, Associate Director for Basic Energy Sciences, U.S. Department of Energy, Mail Station J 309, Washington, D.C. 20545, Term—2 years.

Persons desiring any further information about the LPRB or its membership may contact Clarence Hardy, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234 (301) 921–3555.

Dated: October 12, 1979.

Thomas A. Dillion,

Acting Director.

[FR Doc. 79–32106 Filed 10–16–79; 8:45 am]

BILLING CODE 3510–13–M

COPYRIGHT ROYALTY TRIBUNAL

Cable Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: As the result of a conference on October 11, 1979 for claimants or their duly authorized representatives to discuss the structure and procedure of the cable distribution proceedings, the Copyright Royalty Tribunal directs interested parties to submit a legal brief or memorandum:

(1) Concerning the issue of the broadcast day as a copyright compilation;

(2) Concerning the issue of programming of which a broadcast station is an exclusive licensee;

(3) Concerning the objections raised as to the standing of certain or all sports claimants;

(4) Concerning any other question of copyright ownership as it affects a claim or right to any of the cable television royalties.

These submissions must be received by the Tribunal no later than November 15, 1979; reply comments no later than November 28, 1979. Oral arguments on the above issues will commence on December 5, 1979, and continue on such subsequent days that week as may be necessary.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal (202) 653–5175.

SUPPLEMENTARY INFORMATION

Background

In the notice of the declaration of a controversy concerning the distribution of cable royalty fees on September 12, 1979 (44 FR 53099), the Copyright Royalty Tribunal announced that a conference would take place on October 11, 1979 for claimants or their authorized representative to discuss the structure and procedures of the distribution proceedings. Claimants were further directed to submit proposals on the structure and procedures of the proceedings to the Tribunal no later than October 1, 1979.

As a result of those proposals and the conference the Tribunal has determined that certain threshold issues must be addressed. They are the issue of the broadcast day as a copyright compilation; the issue of programming of which a broadcast station is an exclusive licensee; the issue of the objection raised as to the standing of certain or all sports claimants; and any other question of copyright ownership as it affects a claim or right to any of the cable television royalties.

The Tribunal directs claimants to submit legal briefs or memoranda on the above issues no later than November 15, 1979; with reply comments no later than November 28, 1979. Documents should be submitted in the original with 15 copies. Commencing on December 5, 1979 oral arguments will be heard at 10:00 a.m., at the Vanguard Building, 1111 20th Street, NW., Room 450, Washington, D.C., and continue on such subsequent days that week as may be necessary.

Douglas Coulter,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 79–31982 Filed 10–16–79; 8:45 am]

BILLING CODE 1410–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Reducing Overshipment Charges to Level of Restraint for Certain Man-Made Fiber Apparel Products from the Republic of the Philippines

October 12, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing by 39,117 dozen the amount of 1978 overshipments charged to the level of restraint established for man-made fiber sweaters in Category 645/646 pt., exported from the Philippines during the agreement year which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: By an exchange of notes dated September 4 and 12, 1979, the Governments of the United States and the Republic of the Philippines have further amended the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 11, 1978, as amended, among other things, to apportion the 1978 overshippments, charged in full to the current-year level for Category 645/646 pt., over a five-year period beginning in 1980. Charges amounting to 39,117 dozen are, therefore, being deducted from the total amount currently charged to the category ceiling. The reduction in charges will be accounted for, in part, by a reduction in the levels for Category 645/646 pt. in future agreement years.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT: Carl J. Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the **Federal Register** a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiver textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the

twelve-month period which began on January 1, 1979 and extends through December 31, 1979. As agreed under the terms of the bilateral agreement, shipments in excess of the level established for Category 645/646 pt. during the 1978 agreement year, amounting to 39,117 dozen, were charged to the level of restraint for the category in the 1979 agreement year. Under the terms of an amendment to the bilateral agreements, the two governments have agreed to apportion these overshipments over a five-year period, beginning in 1980, instead of charging the full amount to the 1979 level. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements requests the Commissioner of Customs to reduce the import charges to the level of restraint established for Category 645/646 pt. by 39,117 dozen during the agreement year which began on January 1, 1979.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 12, 1979.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 11, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, it would be appreciated if, effective on October 18, 1979, you would deduct 39,117 dozen from the charges made to the level of restraint established for Category 645/646 pt. during the agreement period which began on January 1, 1979.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exceptions to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31946 Filed 10-16-79; 8:45 am]

BILLING CODE 3510-25-M

Waiving Export Visa and Exempt Certification Requirements for Certain Cotton, Wool and Man-Made Fiber Floor Coverings from India

October 12, 1979.

AGENCY: Committee for the Implementation of Textile Agreements

ACTION: Waiving the export visa and exempt certification requirements, as applicable, for certain cotton, wool and man-made fiber floor coverings with pile or tuft hand-inserted or hand-knotted in Category 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), Category 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200 and 361.4400) and Category 665 (only T.S.U.S.A. number 360.7800).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, it has been agreed to waive the export visa and exempt certification requirements, as applicable, for certain cotton, wool and man-made fiber floor coverings in Categories 369, 465 and 665 with pile or tuft hand-inserted or hand-knotted, which are exempt from the agreement. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs no longer to require an export visa or exempt certification for floor coverings produced or manufactured in India and classified in Category 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), Category 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200, and 361.4400) and Category 665 (only T.S.U.S.A. number 360.7800).

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 12, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of January 5, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in India. This directive also further amends, but does not cancel, the directive of May 13, 1975, as amended, which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products for which the Government of India had not issued an appropriate export visa.

Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 29, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 12, 1979 and until further notice, to exempt from levels of restraint and no longer to require export visas or exempt certifications for floor coverings, produced or manufactured in India and classified in Category 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), Category 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200 and 361.4400) and Category 665 (only T.S.U.S.A. number 360.7800).

The action taken with respect to the Government of India and with respect to the designated cotton, wool and man-made fiber textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the inplementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31945 Filed 10-16-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that closed meetings of the DIA Advisory Committee will be held at the Pentagon, Washington, D.C. on: Monday & Tuesday, November 19–20, 1979.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

October 12, 1979.

[FR Doc. 79-31970 Filed 10-16-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Application for Exception Filed by Unio Oil Co. of California; Public Hearing

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Public Hearing and Request for Written Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) hereby gives notice of a public hearing to be held in Washington, D.C. to receive comments concerning an Application for Exception filed by Union Oil Company of California (Union) on August 31, 1979. In addition, the DOE requests the submission of written comments by interested parties concerning the Application. In its Application, Union requests a reduction of its obligation to purchase or sell entitlements pursuant to 10 CFR 211.67 (the Entitlements Program) to the extent necessary to bring the firm's weighted average cost of imported crude oil into parity with the weighted average cost of imported crude oil of the refining industry in general. In the alternative, Union requests a reduction of its sales obligation pursuant to 10 CFR 211.65 (the Buy-Sell Program). The purpose of the hearing and the solicitation of written comments is to provide all refiners and other interested parties an opportunity to present their views regarding the impact of the exception relief requested.

DATES: Written Comments: October 26, 1979. Hearing: October 29, 1979. Requests to Speak: October 23, 1979.

ADDRESSES: Requests to Speak: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 2000 M Street, N. W., Room 8014, Washington, D.C. 20461 (202) 254–8606. Hearing Location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461. Comments and Further Information To: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 2000 M Street, N. W., Room 8014, Washington, D. C. 20461 (202) 254–8606.

SUPPLEMENTARY INFORMATION: Currently pending before the Office of Hearings and Appeals is an Application for Exception filed by Union Oil Company of California (Union) on August 31, 1979. In its Application, Union states that a very substantial disparity exists between the price paid for foreign crude oil purchased under contract and foreign crude oil which is purchased on the spot market. According to Union, this situation means that its entitlement adjusted cost of crude oil is greater than that of most other major refiners, notwithstanding Union's devotion of considerable funds to the exploration and development of domestic crude oil production. Union contends that the Entitlements Program by failing to account for this price disparity, deprives the firm of the benefits of the lower-cost domestic crude oil production which it developed in furtherance of national energy goals while at the same time poses an economic disincentive to the purchase of foreign crude oil which is needed to satisfy other national goals such as the production of sufficient supplies of heating oil and motor gasoline. Union maintains that it is entitled to exception relief on the basis of the gross inequity and unfair distribution of burdens imposed on the firm by the Entitlements Program. The firm requets relief to the extent necessary to reduce its weighted average cost of imported crude oil to the same level as the weighted average cost of imported crude oil to all domestic refiners.

In addition, Union maintains that because the Entitlements Program is currently creating a disincentive to the purchase of foreign spot crude oil by the firm, it should be granted exception relief from the Entitlements Program for public policy reasons. In the alternative, Union requests a reduction in its sales obligation under the Buy-Sell Program in order to increase the supplies of crude oil available for use in the firm's refineries.

Union also filed Applications for Stay and Temporary Exception on August 31, 1979. A public hearing was held on September 13, 1979 to permit presentations by Union and other interested parties with respect to those Applications. At the conclusion of the hearing, the Office of Hearings and Appeals determined that the record assembled as of the hearing date did not indicate that there was a sufficiently substantial likelihood of success on the merits to justify a Stay or Temporary Exception. The Presiding Officer of the hearing emphasized however that the decision reached with respect to the stay and temporary exception would not be viewed as determinitive of the ultimate merits of the underlying exception application. In fact the Presiding Officer stated that a further opportunity would be afforded to all parties to submit additional data and views as to the Union exception request. At the same time, it was pointed out that even though Union's exception request is based on the particular crude oil pricing differential being experienced by the firm and is therefore cognizable within the exceptions process, the market behavior which the Union Application illustrates also presents broader issues which might appropriately be addressed through a rule-making proceeding. Accordingly, on September 18, 1979, the Office of Hearings and Appeals requested the views of the Economic Regulatory Administration (ERA) concerning this matter and an indication of whether ERA intended to initiate a rule-making. While ERA has indicated that it is still considering this matter, in view of the urgency of Union's request the Office of Hearings and Appeals will proceed to consider the issues raised by Union through the exceptions process.

Since granting exception relief to Union will affect Union's customers, as well as all other refiners in the petroleum industry, the Office of Hearings and Appeals has determined that it would prove beneficial to convene a public hearing at which interested parties will have an opportunity to make oral presentations regarding the merits of Union's exception application. The Office of Hearings and Appeals is particularly interested in comments regarding the type of material which should be analyzed in considering Union's request and the form of relief, if any, which should be granted to Union.

Any party that wishes to make an oral presentation at the hearing should

contact the individual whose name appears at the beginning of this notice. The Office of Hearings and Appeals will consider permitting a party to present the testimony of expert witnesses to introduce specific factual data at the hearing. Any person that wishes to present material of this nature should so indicate in its request to make an oral presentation. Appropriate cross examination may also be permitted of any witnesses.

It is to be emphasized that the hearing that will be convened on October 30, 1979 is for the purpose of oral argument. Consequently, a person will generally not be permitted to read a prepared text at the hearing. A party may however submit written statements for inclusion in the record of the proceeding and present oral arguments.

The Office of Hearings and Appeals reserves the right to limit the number of persons making oral presentation at the hearing and to establish the procedures governing the conduct of the hearing. Those individuals selected to make oral presentations will be notified by October 26, 1979. The Director of the Office of Hearings and Appeals or his designee will preside at the hearing. Any further procedural rules needed for the conduct of the hearing will be announced at the hearing by the Presiding Officer.

A transcript of the hearing will be made and may be purchased from the reporter. The entire record of the hearing will be retained by DOE and will be made available for public inspection at the Office of Hearings and Appeals Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D. C. 20461, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., Monday through Friday.

Issued in Washington, D.C. October 10, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 79-32045 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1314-6]

Availability of Environmental Impact Statements

Corrections

In FR Doc. 79-28049 appearing at page 52327 in the issue for Friday, September 7, 1979; on page 52329, make the following changes:

First Column

ENVIRONMENTAL PROTECTION AGENCY

Wherever dates referring to "Sept." appear, change to "August".

FEDERAL ENERGY REGULATORY COMMISSION

Wherever dates referring to "Sept." appear, change to "August".

Second Column

DEPARTMENT OF HUD

Wherever dates referring to "Sept." change to "August"; also in the third column at the top of the page.

Third Column

DEPARTMENT OF INTERIOR

Wherever dates referring to "Sept." appear, change to "August".

BILLING CODE 1505-01-M

[FRL 1338-6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of October 1 to October 5, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from October 12, 1979 and will end on November 26, 1979. The 30-day review period for final EIS's as calculated from October 12, 1979 will end on November 13, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources: For hard copy reproduction:

Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, D.C. 20036.

For hard copy reproduction or microfiche:

Information Resources Press, 2100 M Street, NW, Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of October 1 to October 5, 1979, the 30-day wait period will be calculated from October 12, 1979. The review period will end on November 13, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of October 1 to October 5, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: October 11, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I.—EIS's Filed With EPA During the Week of October 1 to 5, 1979

Department of Agriculture

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965

Forest Service

Draft

10-Year Timber Resource Plan, Siskiyou National Forest, several counties in Oregon and California, October 4: The proposed action is to develop a revised Ten-year Timber Resource Management Plan for the Siskiyou National Forest, which includes parts of Coos, Curry, and Josephine Counties in Southwestern Oregon and a corner of Del Norte County in California. Four alternatives have been addressed: (1) no change, (2) extensive management, (3) intensive forest management (preferred alternative), and (4) 5% declining yield. The proposal will become effective for the fiscal year in which it is approved and will extend for ten years. (EIS Order No. 91036.)

Final

Norbeck Wildlife Preserve, Black Hills National Forest, Custer and Pennington Counties, S. Dak., October 4: Proposed is a land management plan for the Norbeck Wildlife Preserve of the Black Hills National Forest located in Custer and Pennington Counties, South Dakota. The Preserve encompasses 34,873 acres of National Forest, private, State or other Federally owned lands. The preferred alternative consists of: (1) allocation of the entire unit (with exception of the Norbeck RARE II Area and the pine Creek Natural Area) for wildlife habitat improvement, (2) use of motorized vehicles for management activities, (3) closing of roads after management activities are completed, and (4) continuing use of existing main highways and roads serving private lands. (USDA-FS-R2-FEIS(ADM)FY-78-04.) Comments made by: EPA, USDA, DOT, State and Local Agencies, Groups, Individuals, and Businesses. (EIS Order No. 91037.)

Department of Defense, Army

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

On-going Mission Activities, Fort Devens, Worcester County, Mass., October 5: Proposed is the ongoing mission activities of Fort Devens located in Worcester County, Massachusetts. The basic alternatives considered are: (1) continuance of Fort Devens' mission and activities at current levels, (2) downgrading Fort Devens' activities by relocating existing activities and troop units to other installations and by maintaining the installation in a semi-active status, (3) total closure of the installation and transfer of all functions to other Federal facilities, and (4) expand the mission to include restationing of troops and activities from other locations. (EIS Order No. 91041.)

On-going Mission, 101 Airborne Division and Fort Campbell, several counties in Tennesseee and Kentucky, October 5: The proposed action is the continuation of the ongoing activities of the 101st Airborne Division (Air Assault) and Fort Campbell, Kentucky, in compliance with the Department of Defense missions assigned. Fort Campbell is located in northcentral Tennesseee in Montgomery and Steward Counties and in southwestern Kentucky in Christian and Trigg Counties. The alternatives considered include: no action, total installation closure, and mission modification. (EIS Order No. 91043.)

Department of Defense, Army Corps

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Final

Transfer Terminal Fleeting Facility, Ohio R. 308, Lawrence County, Ohio, October 4: Proposed is the issuance of a permit for the construction, operation, and maintenance of a proposed transfer terminal fleeting facility for mooring barges. The 3,344 foot facility would be built on Ohio River Mile 308. Adverse impacts of the project include some increase in air pollution caused by coal dust blowing from loaded barges during dry, windy weather, increased barge traffic, reduced value of adjacent lands for residential purposes, and the loss of a segment of the Ohio River and adjacent riverbanks for other purposes. (Huntington District) COMMENTS MADE BY: EPA, DOI, USDA, FPC, CGD, ORBC AHP, State and Local Agencies, Groups, Individuals, and Businesses. (EIS Order No. 91039.)

Environmental Protection Agency; Region IV

Contact: Mr. John Hagan, Region IV, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30308, (404) 881-7458.

Draft

Estech General Chemicals Corp., Duette Mine, Permit, Manatee County, Fla., October 5: Proposed is the issuance of a new source National Pollutant Discharge Elimination System (NPDES) Permit to Estech General Chemicals Corporation. Estech has proposed an open pit phosphate mine, beneficiation plant and rock dryer on a 10,394 acre site, Duette Mine, located in northeastern Manatee County, Florida. Mining will involve 6,600 acres most of which will be reclaimed, and will produce 3 million tons per year for 21 years. Operation of the proposed facilities requires a mining plan, a water management system and an integrated waste disposal reclamation plan. (EPA 904/9-79-044, permit FL0036609.) (EIS Order No. 91044.)

Department of HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6306.

Draft

Crowfield Plantation, PUD, Charleston, Berkeley County, S.C., October 5: The proposed action is the approval of the Crowfield Plantation Subdivision located in Berkeley County, South Carolina for FHA mortgage insurance. The proposed development would contain approximately 5,500 dwelling units and will encompass a 2,850 acre area. Several alternatives have been addressed including: 1) approve as proposed, 2) approve at the maximum density permitted, 3) approve with condition, and 4) withhold FHA mortgage insurance. (HUD-R04-EIS-78-17.) (EIS Order No. 91042.)

Department of Interior

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

National Park Service

Draft

Stones River National Battlefield and Cemetery, GMP, Rutherford County, Tenn., October 1: Proposed is a new General Management Plan to update the Master Plan currently govering Stones River National Battlefield and Cemetery located in Rutherford County, Tennessee. Included in this Plan is: 1) develop vegetation screens and buffer zones, 2) preserve integrity of the battlefield, 3) work closely with county and city officials on new development, 4) construction of a new park entry/connector road, 5) to protect the cedar glades, 6) expand interpretation, 7) construct two luncheon/trail shelters, 8) extend NESA trails, 9) increase parking, and 10) selected land acquisition. (DES-79-56.) (EIS ORDER No. 91032.)

Department of Justice

Contact: Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, (202) 633-2704.

Final

Federal Detention Center, Construction, Tucson, Pima County, Ariz., October 4: Proposed is the construction of a new Federal Detention Center in Tucson, Pima County, Arizona. The complex will contain a gross area of approximately 40,000 square feet of low profile buildings, on a 40 acre site. The facility will house approximately 200 federal prisoners and will be master planned for possible future expansion to house 350. (BOP-TUC-Z21.) Comments made by: FERC, USDA, COE, EPA, DOI, DOC, State and Local Agencies, Individuals. (EIS ORDER No. 91038.)

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Draft

Fort McHenry Tunnel, I-95, Dredging and Disposal, Baltimore County, Md., October 2: The proposed action is the dredging and disposal of materials associated with the construction of the Fort McHenry Tunnel located in Baltimore, Maryland. The Tunnel will provide the crossing for I-95 under the Northwest Branch of the Patapsco River. It is estimated that approximately 3,343,000 cubic yards of bottom material must be dredged to form the trench for the prefabricated tubes sections. The alternatives address numerous water and upland disposal areas and the recommended site is a contained area adjacent to the shoreline in Baltimore Harbor. (FHWA-MD-EIS-79-03-D.) (EIS ORDER No. 91034.)

TN-61, Hillcrest St. to Clinch River, Clinton, Anderson County, Tenn., October 3: The proposed project consists of the reconstruction of TN-61 within the Town of Clinton, Anderson County, Tennessee. The project, approximately 3.5 miles, begins at the intersection of existing TN-61 and Hillcrest Street and ends 0.25 miles south of the Clinch River. The proposed cross section includes 4 twelve-foot traffic lanes and a continuous center left turn with curbs and gutters, sidewalks, and grass plots on each side. In addition 4-lane connector routes will be considered in the northern portion of the project. (FHWA-TN-EIS-02-D.) (EIS ORDER No. 91035.)

Final

Clackamas Highway, OR-212, I-205 to Boring Road, Clackamas County, Oreg., October 5: Proposed is the improvement of OR-212 (Clackamas Highway) for a distance of 3.39 miles extending east from I-205 (East Portland Freeway) to Boring Road. The plan is to widen the existing two-lane highway to four lanes between SE 82nd Drive to the Boring Road junction, with a nearly continuous left turn lane, widened and signalized intersections, and general road realignment. The alternatives considered include: 1) no build; and 2) build, consisting of two design options.

(FHWA-OR-EIS-79-03-F.)

Comments made by: EPA, USA, DOI, State and Local Agencies.

(EIS ORDER NO. 91040.)

Utah Valley to Heber Valley, UT-52 and U.S. 189 Wasatch County, Utah, October 1: Proposed is the improvement to 9 miles (14km) of existing contiguous highways, UT-52 and U.S. 189, between U.S. 89, Center Street, in Orem, Utah County and the Wasatch County line in the vicinity of the intersection of U.S. 189 and UT-92 at Wildwood in Provo Canyon in Utah. UT-52 is to be upgraded from an existing 2-lane road to 4 lanes and U.S. 189 is proposed as an improved 2-lane-with-passing-lanes facility. Included in the alternatives are: 1) no build, 2) alternative routing within corridor, 3) alternative corridor, and 4) alternative mode.

(FHWA-UT-EIS-76-02-F.)

Comments made by: AHP, USDA, HEW, HUD, DOI, EPA, GSA, State Agencies, Groups and Businesses.

(EIS ORDER NO. 91031.)

U.S. Coast Guard

Draft Supplement

Calhoun St. Bridge Replacement, Delaware Ri. (DS-1, New Jersey and Pennsylvania, October 1: This statement supplements the draft EIS [#71128] issued on 9-14-77. The supplement addresses substantial changes to the original proposal and significant new circumstances. Proposed is the construction of a four lane toll bridge across the Delaware River connecting Morrisville, Pennsylvania and Trenton, New Jersey. The bridge will replace the existing two-lane, tax supported structure erected in 1884. Bridge design changes have been proposed such as a narrower bridge, smaller piers and relocation of toll booths. This supplement is not a replacement document for the draft EIS but rather a companion document. (EIS ORDER NO. 91033.)

EIS's Filed During the Week of Oct. 1 to 5, 1979

[Statement Title Index—by State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Arizona	Pima	Final	Federal Detention Center, Construction, Tucson	91038	10-04-79	DJUS
California	Several	Draft	10-Year Timber Resource Plan, Siskiyou NF	91036	10-04-79	USDA
Florida	Manatee	Draft	Estech General Chemicals Corp, Duette Mine, Permit.	91044	10-05-79	EPA
Kentucky	Several	Draft	On-going Mission, 101 Airborne Div. & Ft. Campbell	91043	10-05-79	USA
Maryland	Baltimore	Draft	Fort McHenry Tunnel, I-95, Dredging and Disposal..	91034	10-02-79	DOT
Massachusetts	Worcester	Draft	On-going Mission Activities, Fort Devens	91041	10-05-79	USA
New Jersey		Supple	Calhoun St. Bridge Replacement, Delaware Ri. (DS-1).	91033	10-01-79	DOT
Ohio	Lawrence	Final	Transfer Terminal Fleeting Facility, Ohio R. 308	91039	10-04-79	COE
Oregon		Draft	10-Year Timber Resource Plan, Siskiyou NF	91036	10-04-79	USDA
	Clackamas	Final	Clackamas Highway, OR-212, I-205 to Boring Road.	91040	10-05-79	DOT
Pennsylvania		Supple	Calhoun St. Bridge Replacement, Delaware Ri. (DS-1).	91033	10-01-79	DOT
South Carolina	Berkeley	Draft	Crowfield Plantation, PUD, Charleston	91042	10-05-79	HUD
South Dakota	Custer	Final	Norbeck Wildlife Preserve, Black Hills NF	91037	10-04-79	USDA
	Pennington	Final	Norbeck Wildlife Preserve, Black Hills NF	91037	10-04-79	USDA
Tennessee		Draft	On-going Mission, 101 Airborne Div. & Ft. Campbell	91043	10-05-79	USA
	Anderson	Draft	TN-61, Hillcrest St. to Clinch River, Clinton	91035	10-03-79	DOT
	Rutherford	Draft	Stones River National Battlefield & Cemetery, GMP	91032	10-01-79	DOI
Utah	Utah	Final	Utah Valley to Heber Valley, UT-52 & US 189	91031	10-01-79	DOT
	Wasatch	Final	Utah Valley to Heber Valley, UT-52 & US 189	91031	10-01-79	DOT

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357	I-59/U.S. 84, Laurel Bypass, Jones County, Mississippi.	Draft 91017	Oct. 5, 1979	Extension	Nov. 30, 1979
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Marco Island/Vicinity Wetlands Development, Permit.	Draft 90980	Sept. 28, 1979	Extension	Nov. 27, 1979

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Correction
None.				

[FR Doc. 79-31941 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-30138B; FRL 1340-2]

Approval of Application to Register Pesticide Product Containing New Active Ingredient

On October 7, 1977, notice was given (42 FR 54594) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120 had filed an application (EPA File Symbol 3125-GRO) with the Environmental Protection Agency (EPA) to register the pesticide product BAYLETON TECHNICAL containing 92% of the ative ingredient 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved on September 27, 1979 and the product has been assigned EPA Registration No. 3125-319. BAYLETON TECHNICAL is classified for general use as a fungicide in the formulation of economic poisons. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM-21) office, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Room EB-35, EPA, telephone number 202/426-8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of September 27, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32016 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-30138C; FRL 1340-3]

Approval of Application to Register Pesticide Product Containing New Active Ingredient

On October 7, 1977, notice was given (42 FR 54594) that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120 had filed an application (EPA File Symbol 3125-GEN) with the Environmental Protection Agency (EPA) to register the pesticide product BAYLETON 50% WETTABLE POWDER containing 50% of the active ingredient 1-(4-chlorophenoxy)-3,3-dimethly-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved on September 27, 1979 and the product has been assigned EPA Registration No. 3125-320. BAYLETON 50% WETTABLE POWDER is classified for general use as a fungicide to control azalea petal blight. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM-21) office, Room E-305, Registration

Division (TS–767), Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460, telephone number 202/755–2562. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Room EB–35, EPA telephone number 202/426–8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of September 27, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–32015 Filed 10–16–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP–30138A; FRL 1334–8]

Approval of Application To Register Pesticide Product Containing New Active Ingredient

On October 7, 1977, notice was given (42 FR 54594) that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120 had filed an application (EPA File Symbol 3125–GRI) with the Environmental Protection Agency (EPA) to register the pesticide product Bayleton 25% Wetable Powder containing 25% of the active ingredient 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved on September 27, 1979 and the product has been assigned EPA Registration No. 3125–318. Bayleton 25% Wetable Powder is classified for general use as a fungicide to control azalea petal blight. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM–21) office, Room E–305, Registration Division (TS–767), Office of Pesticide Programs, 401 M St., SW. Washington, DC 20460, telephone number 202/755–2562. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Room EB–35, EPA, telephone number 202/426–8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of September 27, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–32017 Filed 10–16–79; 8:45 am]

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[OPP 180310a; FRL 1339–3

California Department of Food and Agriculture; Amendment to Specific Exemption To Use Terramycin To Control Western X-disease in Sweet Cherries

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

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Terramycin to control Western X-disease in sweet cherries.

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: 202/426–0223. It is suggested that interested persons telephone before vistiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Friday, July 6, 1979 (44 FR 39606), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to the Applicant to use 2,400 kilograms of Terramycin on 9,226 acres of sweet cherries in San Joaquin and Stanislaus Counties, California, for the control of Western X-disease. The specific exemption was to expire on September 30, 1979. Since then, the Applicant has requested that the expiration date be changed to December 30, 1979. According to the Applicant, growers will not be able to make adequate post-harvest applications of Terramycin by September 30 because cherry bloom was well under way when the exemption was granted and one of the limitations of the exemption was that no application would be made after ten percent of a tree had bloomed. The Applicant also reported that new counties, not allowed under the specific exemption, now have an urgent need to treat cherry trees to control Western X-disease, and requested that the exemption be amended to allow treatment in all sweet cherry-growing areas of the State.

After reviewing the application and other available information, EPA has determined that the requested amendment would not significantly increase the amount of Terramycin already being used in the sweet cherry-growing areas of California, nor would it significantly increase any environmental risk. Accordingly, EPA has granted the requested amendment so that the specific exemption expires on December 30, 1979 and is subject to the following limitations:

1. Application is limited to 10,300 acres of sweet cherry trees;

2. A maximum of 2,680 kilograms (5,896 pounds) of Terramycin may be applied; and

3. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1980.

Statutory Authority: 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: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–32022 Filed 10–16–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP 180367; FRL 1339-4]

Hawaii Department of Agriculture; Issuance of Specific Exemption To Use Velpar To Control Vasey and Dallis Grasses in Post-Plant Pineapple Fields

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

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Hawaii Department of Agriculture (hereafter referred to as the "Applicant") to use Velpar (hexazinone) on a maximum of 1,400 acres of pineapples in Hawaii to control vasey and dallis grasses. The specific exemption expires on September 15, 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: 202/426-0223. 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: Vasey and dallis grasses are perennial grasses which thrive in the soil types and under the cultural practices prevailing in the wetter pineapple areas in Hawaii. They are heavy seeders and the stumps of mature plants are difficult to kill by heavy disking and plowing. The stems sprawl over the crop, screening out the light and robbing the crop of nutrients and water. The root system is extensive and strong, making it almost impossible to pull a mature plant out of the ground by hand. The plants start producing seed about four months after they appear from germinating seed.

Seed germination can be suppressed with registered herbicides during the drier months of the year (June-Novermber). The heavier rains of the winter months break the herbicide "blanket" and seed emergence starts. The Applicant states that the newly emerged seedling can be effectively killed with Evik plus surfactant until it passes the 3-leaf stage. According to the Applicant, after this stage the seedling is resistant to all of the registered herbicides, unless they are used at higher-than-label rates, which would also seriously damage or kill the pineapple plant. If heavy rain follows shortly after an Evik application to young vasey grass seedlings, the grass survives the treatment and grows on through the herbicide-sensitive stage. The herbicide is still in the pineapple root zone, however, and repeat applications cannot be made in time to kill the grass without seriously damaging the pineapple plant. The Applicant reports that the extraordinarily heavy and persistent rains of 1978-1979 made the Evik seedling control program ineffective. Part of the pineapple crop, now approaching one year after planting, is beginning to close its canopy and the vasey grass is starting to grow into the canopy. The Applicant states that the grasses must be treated immediately if the weeds are to be sprayed without getting unacceptable amounts of Velpar on the pineapple foliage.

On May 29 and July 19, 1979 the Applicant notified EPA that it was availing itself of crisis exemptions to use Velpar. Under these crisis exemptions the Applicant has applied approximately 370 pounds of Velpar to 740 acres of pineapples at a rate of one-half pound Velpar per acre in 75 gallons of water. Velpar was used in a tank-mix with Karmex 80-W, Hyvar 80-W and Evik 80-W (all but Velpar are registered for this use). The Applicant has requested permission to treat a total of 1,400 acres.

The Applicant anticipates a reduction of ten tons of pineapples and a twenty-ton reduction in ratoon yield per acre, if the Velpar mix cannot be used to control the grasses. This would amount to over $5 million on the 1,400 acres of pineapples.

EPA has determined that residues of hexazinone and its metabolites should not exceed the following levels from the proposed use: 0.4 part per million (ppm) in pineapple (whole fruit); 2.0 ppm in pineapple forage; 0.02 ppm in milk; and 0.01 ppm in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep. These levels have been judged by EPA to be adequate to protect the public health. The proposed use is not expected to present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of dallis and vasey grasses have occurred in pineapple fields; (b) there is no effective pesticide presently registered and available for use to control these grasses in Hawaii; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pests 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 September 15, 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 Velpar 90-W, EPA Reg. No. 352-378, may be applied to pineapples;

2. A single application of Velpar may be applied at a rate of one-half pound product per acre in seventy-five gallons of water;

3. Velpar may be tank-mixed with Karmex 80-W, Hyvar 80-W and Evik 80-W;

4. Application will take place by ground equipment on a maximum of 1,400 acres of pineapples;

5. A nine-month pre-harvest interval is imposed;

6. Residues of hexazinone and its metabolites should not exceed 0.4 ppm in pineapple (whole fruit), 2.0 ppm in pineapple forage, 0.02 ppm in milk, or 0.01 ppm in meat, fat, and meat byproducts of cattle, goats, horses, hogs, and sheep. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;

7. All applicable precautions and restrictions on the registered label must be adhered to;

8. Any adverse effects from the use of Velpar under this exemption must be reported immediately to EPA; and

9. 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 December 31, 1979.

Statutory Authority: Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

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[FRL 1339-7; OPP 30000/12D]

Intent To Conditionally Register a Pesticide Product Containing Amitraz for Use on Pears; Correction

On Thursday, June 7, 1979 (FR 32736), information appeared pertaining to the issuance of a Notice of Intent to Conditionally Register a Pesticide Product Containing Amitraz for Use on Pears. At the time of publication, Position Document 4 (PD 4), explaining the agency's analysis of comments submitted by USDA, SAP, et al., was inadvertently omitted.

EPA publishes the Notice of Intent to Conditionally Register a Pesticide Product Containing Amitraz for use on Pears and the Position Document 4 in their entirety.

Dated: October 10, 1979.

James M. Conlan,

Deputy Assistant Administrator for Toxic Substances.

Intent To Conditionally Register a Pesticide Produce Containing Amitraz for Use on Pears

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

ACTION: Notice of Intent to Conditionally Register a Pesticide Product Containing Amitraz for Use on Pears and to Not Grant Registration of this Product for Use on Apples; Notice of Availablity of Position Document 4.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs (TS–791), EPA, Washington, D.C. 20460 (703/577–7986).

SUPPLEMENTARY INFORMATION: On July 23, 1976, the Environmental Protection Agency (EPA) received an application for registration of a pesticide product (BAAM EC) containing amitraz for use on apples and pears. On April 6, 1977, EPA published in the **Federal Register** (42 FR 18299), a notice of rebuttable presumption against registration (RPAR) of amitraz based on its determination that amitraz and a metabolite of amitraz had induced cancer in laboratory animals. After issuance of the RPAR, the Agency considered comments submitted by applicant for registration and other persons for the purpose of rebutting the resumption or demonstrating possible benefits of amitraz. The Agency also received and considered comments from the U.S. Department of Agriculture (USDA) on the possible benefits of amitraz.

After reviewing all the submitted information and considering the requirements for full registration under Section 3(c)(5) of FIFRA and for conditional registration of pesticides containing unregistered active ingredients under Section 3(c)(7)(C), the Agency determined that it would conditionally register amitraz for use on pears and would not register that pesticide for use on apples. Notice of this determination was published in the **Federal Register** on January 12, 1979 (44 FR 2678–2682), that notice, Amitraz Position Document 3, which detailed the Agency's reasons for its determination, and other documents referenced in the Position Document were sent to the FIFRA Scientific Advisory Panel (SAP) and USDA for comment. EPA has received comments from SAP and USDA, as well as from the applicant for registration and other interested persons on its January 12, 1979 Notice of Determination.

After considering all these comments, the Agency has concluded the following with respect to risks and benefits: (1) there is weakly positive evidence that amitraz is a potential human carcinogen; (2) use of amitraz on pears and apples for a short period of time would pose a very small risk of cancer to applicators, bystanders, and the general U.S. population; (3) a bioassay of the carcinogenicity of amitraz on mice submitted by the applicant suffers from deficiencies which make it unreliable for purposes of estimating the risks resulting from exposure to amitraz over a long period of time; (4) use of amitraz on pears may result in significant benefits; (5) use of amitraz on apples would result in insignificant or speculative benefits.

The Agency has made the following decisions on the pending application for registration of amitraz:

1. The bioassay for carcinogenicity of amitraz in mice does not satisfy the data requirements for full registration under Section 3(c)(5). Therefore, the Agency cannot consider granting full registration for use of amitraz on either apples or pears until another bioassay has been conducted.

2. The Agency cannot grant conditional registration of amitraz for use on apples because the requirements of Section 3(c)(7)(C) of FIFRA have not been met. That section permits conditional registration of pesticide products containing unregistered active ingredients only if such registration would not cause any unreasonable adverse effects and would be in the public interest. Because use of amitraz on apples would result in a small carcinogenic risk to people and insignificant benefits, the Agency concludes that such use would cause unreasonable adverse effects and would not be in the public interest.

3. The Agency will conditionally register amitraz for restricted use on pears for four years under Section 3(c)(7)(C) of FIFRA. The Agency has concluded that such registration would not cause any unreasonable adverse effects and would be in the public interest because it would result in substantial benefits and very small risks.

This registration will be subject to certain terms and conditions. Label directions will specify that only certified applicators may spray amitraz, and will also require a 7-day preharvest interval, protective clothing for applicators, and a prohibition against reentry until the treated leaves are dry and in any event until 24 hours after application. Also, additional benefits data and another mouse oncogenic bioassay must be submitted within 4 years, with annual reports of progress and test results. If the registrant does not meet these stipulations, the conditional registration may be cancelled.

The Agency will issue a conditional registration of amitraz for use on pears after the applicant agrees in writing to the conditions and terms specified in this document and agrees to satisfy all of the Agency's data requirements.

Position Document 4 (PD 4) follows this Notice of Intent to Conditionally Register Pesticide Products containing Amitraz for Use on pears. It explains in detail the Agency's analysis of the comments submitted by the USDA, SAP and other interested parties regarding Position Document 3 (PD 3). Appendix of PD 4 contains the SAP and USDA comments in their entirety. PD 3 sets forth the Agency's reasons and factual bases for the regualtory actions proposed in the Janaury 12, 1979, Notice of Determination. PD 3 and PD 4 provide the reasons and factual bases for the decisions and regulatory actions initiated in today's notice.

Amitraz (BAAM): Position Document 4

Special Pesticide Review Division, Office of Pesticide Programs, Office of Toxic Substances, U.S. Environmental Protection Agency.

Acknowledgements

Writing Staff

Jeff Kempter, Project Manager, SPRD, OPP
Paul N. Parsons, Writer-Editor, SPRD, OPP

EPA Project Support Team

Fred Arnold, Regulatory Analyst, SPRD, OPP
Merry Lou Alexander, Aquatic Biologist, HED, OPP
Laura Bennett, Physiologist, HED, OPP
Dr. George Beusch, Chemist, HED, OPP
Richard Bozof, Attorney, OGC
Edwin Budd, Toxicologist, HED, OPP
Carolyn Gregorio, Toxicologist, HED, OPP
Dr. C. Hiremath, Toxicologist, CAG
Phillip O. Hutton, Entomologist, RD, OPP
Mark Luttner, Economist, BFSD, OPP
Dr. Robert McGaughy, Toxicologist, CAG
Abraham Mittelman, Chemist, HED, OPP
William S. Rabert, Aquatic Biologist, HED, OPP

Dr. David Severn, Cehmist, HED, OPP
Robert Stapp, Entomologist, BFSD, OPP
Geraldine Werdig, Branch Chieft, SPRD, OPP

EPA Pesticide Chemical Review Committee (PCRC)

Dr. William A. Wells, Chairperson, SPRD, OPP
Dr. Elizabeth Anderson, CAG, ORD
Dr. Richard N. Hill, OTS
Dr. Allen Jennings, SRD, OPM
Dr. Donna Kuroda, OHEE, ORD
Mr. John J. Neyland, PED, OE
Mr. Michael S. Winer, OGC

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Amitraz (BAAM): Position Document 4

I. Introduction

Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. Section 136 *et. seq.),* the Environmental Protection Agency (EPA or the Agency) regulates all pesticide products. On June 22, 1976, the Upjohn Company applied to the Agency for registration of amitraz (BAAM EC), a chemical which had not been previously registered for use in the United States.

Section 3(c)(5) of FIFRA sets forth the conditions for approval of a registration. It directs the Administrator to register a pesticide if:

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of (FIFRA);

(C) it will perform its intended function without unreasonable adverse effects on the environment, and

(D) when used in accordance with commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.[1]

Section 3(c)(6) states that if the requirements of 3(c)(5) are not satisfied, the Administrator may deny the registration application. The Agency must notify the applicant of his decision and his reasons for doing so, and publish a notice in the **Federal Register** allowing the applicant 30 days to respond. The applicant may either correct any conditions specified by the Administrator, or seek relief by requesting a hearing via the processes described in Section 6 of FIFRA.

Section 3(c)(7)(C) of FIFRA allows the Administrator to conditionally register a new pesticide containing an unregistered active ingredient under special circumstances, even though all the data requirements for full registration have not been met. Specifically, the Administrator may conditionally register such a pesticide for a period reasonably sufficient for the generation and submission of required data if:

—The required data are lacking because a period reasonably sufficient for the generation of the data has not elapsed since the Administrator first imposed the data requirement,
—By the end of the conditional registration the submitted data do not meet or exceed the risk criteria listed in the Agency's regulations (40 CFR 162.11),
—The use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and
—The use of the pesticide is in the public interest.

On March 30, 1977, the Agency determined that the use of amitraz may result in unreasonable adverse effects and issued a Rebuttable Presumption Against Registration (RPAR). The Agency designed the Rebuttable Presumption Against Registration (RPAR) process to gather risk and benefit information about pesticides suspected of posing certain adverse effects and to make balanced decisions concerning them in a manner which allows all interested groups to participate. This process is set forth in 40 CFR 162.11. A **Federal Register** notice on April 6, 1977 announced the availability of Position Document 1 to support the RPAR (42 FR 18299–18302).

After reviewing rebuttal comments received in response to Position Document 1, the Agency issued a notice of determination and availability of Position Document 3 in the **Federal Register** on January 12, 1979 (44 FR 2678–2682). In Position Document 3 the Agency analyzed the rebuttals, presented its analysis of the risks and benefits from the uses of amitraz, and proposed a decision to conclude the RPAR process. The decision was to conditionally register amitraz for 4 years on pears, during which more risk and benefit data would be generated, and to deny the registration of amitraz on apples.

When issuing a notice of intent to cancel or intent to hold a hearing under Section 6(b) of FIFRA, the Administrator must submit such notices to the Secretary of Agriculture and to the Scientific Advisory Panel for their review and comment. Because the decisions described in this notice were made with respect to the registration and conditional registration provisions of Section 3, the Agency is not required to submit notice of these decisions to the Secretary of Agriculture or to the SAP. However, the Agency in its discretion has elected to follow the procedure for notices issued under Section 6. In addition, the Agency has afforded registrants and other interested persons an opportunity to comment on the decision described in Position Document 3 and the January 12, 1979 Notice of Determination.

The Agency received and considered three timely sets of comments in response to the January 12, 1979 Notice of Determination and the Amitraz Position Document 3. The Agency also considered four comments which were received after the mandatory 30-day period allowed by law. All comments received either during or after the 30-day period were made available in the public file for review and evaluation by the public. Responses from the SAP, the U.S. Department of Agriculture, and other interested parties have been analyzed and are addressed in Section II of this document. Section III summarizes the Agency's decision concerning pesticide products containing amitraz. Appendix A lists all comments received by the Agency. Appendix B contains the responses from the SAP and the USDA in their entirety.

II. Analysis of Comments

The Agency received comments from the Secretary of Agriculture, the Scientific Advisory Panel (SAP), and five other concerned individuals and organizations. These comments are organized by topic and discussed in this section. The Agency has changed some aspects of its risk assessment, benefits, and regulatory options in response to

[1] "Unreasonable adverse effects" is defined by Section 2(bb) of FIFRA 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."

the comments. Except as discussed, the Agency has not changed any other aspects of its analysis in Position Document 3.

A. Comments Relating to Risk

1. Lymphoreticular (LR) Tumors in Female CFLP Mice

The amitraz risk assessment was based primarily on a mouse oncogenic bioassay by the Boots Chemical Company (Burnett et al., 1976). This Boots study, according to its authors and several EPA pathologists, showed a statisitically significant increase in lymphoreticular (LR) tumors in female mice ingesting amitraz. Position Document 3 outlined the key issues and the opinions of several pathologists on the protocols and results of that study.

One commenter [2A(30000/12B)] submitted two additional pathologists' opinions on the histopathological results of the Boots mouse study. These pathologists, Dr. Maurice C. Lancaster of the Boots Company and Dr. Thomas J. Kakuk of the Upjohn Company, independently examined the lymphoid tissues of the female mice, apparently without knowledge of the dose group for the animals (i.e., so that they read the slides "blind," or without bias). They each concluded that there was not a statistically significant incidence of LR tumors in the high-dose females compared to the controls. Using these opinions, the commenter stated, "[I]t can be concluded that amitraz (BTS–27419) should not be regarded as a weak carcinogen nor should amitraz accordingly present any human health risk for the uses specified."

Commenter 2A(30000/12B) also testified before the Scientific Advisory Panel on January 25, 1979, and requested the Agency to consider his testimony [comments 2C and 2D (30000/12)] as part of his comments. At the SAP meeting, Dr. Kakuk [comment 2D(30000/12B)] explained his findings and those of Dr. Lancaster. He asserted that the difference between their pathology diagnoses and those of the other pathologists "was due to the recognition or the lack thereof of microscopically detectable LR tumors . . . and the failure to differentiate them from reactive inflammatory lesions (hyperplasia, lyphadenitis, etc.)." He also stated that the original three Boots Study pathologists and Dr. Reuber (for EPA) had "overdiagnosed the frequency of LR tumors." While not refusing the positive findings of Dr. Dubin (after consultation with Dr. Squire), Dr. Kakuk concluded that the incidence of LR tumors in the high-dose female mice was *not* significantly greater that the LR tumor incidence in the matched controls.

The Agency's Carcinogen Assessment Group reviewed these most recent reports of Drs. Lancaster and Kakuk (Albert 1979). The CAG indicated that these reports did not change the CAG's previous position that "the evidence is weakly positive that amitraz is likely to be a human carcinogin." Dr. Kakuk's report had restated the main pathology issue which the Agency has faced throughout the RPAR review of amitraz: namely, how to definitely distinguish microscopic lymphoreticular tumors from precursor lesions and from reactive inflammatory hyperplasia. As explained by Dr. Dubin in his diagnosis (Albert 1979), an LR tumor develops along a continuous progression from preneoplastic hyperplasia to a fully malignant lymphoma. Because of the lack of uniformly accepted criteria, some pathologists might identify a specific lesion as hyperplasia, while others would call it a lymphoma. Dr. Dubin has also pointed out the potential for confusing LR tumors with slight chronic inflammation of tissue. Given the lack of agreed-upon criteria for positively identifying LR tumors, the Agency expects differences among the diagnoses of reputable pathologists, and differences were indeed seen in this case. The Agency finds that the additional comments and diagnoses by Drs. Kakuk and Lancaster did not resolve the issue and did not negate the opinions of the original Boots pathologists, of Dr. Reuber or of Drs. Dubin and Squire jointly, who found a statistically significant lymphoreticular tumor response in the high dose female mice.

The Scientific Advisory Panel [Comment 3(30000/12B)] reviewed the Boots mouse study and the diagnoses of the study's three pathologists, of Dr. Reuber, of Dr. Dubin, of Drs. Dubin and Squire jointly, of Dr. Lancaster and of Dr. Kakuk. The SAP concluded, "From consideration of all these data, the Panel is of the opinion that a statistically significant increase in mouse lymphoma has not been shown." The SAP also recommended that a new mouse oncogenicity study be performed. The SAP did not explain its reasons for reaching these conclusions.

In response to the SAP's conclusion that a statistically significant increase in mouse lymphoma has not been demonstrated, the Agency replies that the *absence* of carcinogenic effect has by no means been demonstrated, since two reputable pathologists in addition to the original Boots pathologists concluded that lymphoreticular tumors were induced by amitraz. Further, the SAP has not provided any reason for rejecting the diagnoses of these pathologists. Therefore, the Agency concludes that the Boots mouse study provides weakly positive evidence that amitraz is a possible human carcinogen. The Agency agrees with the SAP that a new mouse oncogenicity study be carried out, because of the deficiencies of that experiment which were described in Position Document 3.

2. Oncogenicity of a metabolite: 2,4-dimethylaniline

Commenters 2A(30000/12B) and 2D(30000/12B) contested the agency's conclusion that 2,4-dimethylaniline may present an oncongenic risk to man. The commenters agreed that an NCI study has shown a statistically significant difference between the incidence of pulmonary tumors (11/19) in female mice treated at the high dose and the incidence of those tumors (5/22) in the matched control females ($p < .025$). However, the commenters asserted that this evidence does not justify labeling the compound a carcinogen, because:

(1) 34% of the pooled control female mice had not been pathologically examined.

(2) There were more sarcomas and malignant tumors in the matched control female mice than in treated female mice.

(3) The Boots mouse study with amitraz did not show an increase of pulmonary tumors.

(4) 2,4-dimethylaniline did not induce LR tumors in the NCI study.

(5) The author of the NCI study on 2,4-dimethylaniline stated that since only one sex of one species was affected at one site, "such findings are contrary to the criteria of the NCI Subcommitttee on Environmental Carcinogenesis, in which greater confidence is placed on a dose-dependent relationship and positive results in more than one group of animals."

Point (1) refers to the "pool" of six control groups that were run during the NCI's 9 month study of 21 compounds. However, when comparing treated groups to control groups to determine the statistical significance of tumor incidences, it is approrpiate to compare the treated group to its *matched* control group. This was the procedure followed in the NCI study. The fact that 100% of the matched controls and the treated animals were examined should dispel any question of irregularity concerning the protocol.

In point (2), the commenters combined the incidences of tumors at *several* sites and compared these *combined* incidences to the matched control animals. This approach is not as

definitive as evaluating the tumor incidence for *specific* sites. In addition, in order to demonstate that a chemical is not an oncogen, a bioassay may not show positive tumorigenic activity at any site. Thus, the Agency does not recognize the commenter's point as meaningful.

Point (3) does not negate the NCI study's finding that 2,4-dimethylaniline induced pulmonary tumors. Since different strains were used in the Boots and NCI studies, the results are not comparable. Further, the Boots study may not have been sensitive enough to detect on oncogenic response caused by this metabolite.

Point (4) is factually correct but is irrelevant to the potential carcinogenicity of 2,4-dimethylaniline, which is based on its induction of pulmonary tumors in the NCI study.

Regarding point (5), the agency's conclusion that 2,4-dimethylaniline is a potential human carcinogen is based upon the statistically significant higher incidence of lung tumors in high dose female mice compared to the matched controls. Although a significant finding in more than one dose group and a positive dose-response relationship would indicate a stronger effect, the positive finding in one group is sufficient evidence of a presumptive cancer risk.

3. Mutagenicity of 2,4-dimethylaniline

Commenter 2D (30000/12B) asserted that Position Document 3 was "somewhat misleading" in that it described the one positive response obtained for 2,4-dimethylaniline in the TA100 strain of the Ames test, but did not mention the negative results for other tests on that chemical, on amitraz, or on other metabolites of amitraz.

The Agency refers the commenter to page 18, paragraph 4, of Position Document 3, which states:

> The CAG also reviewed mutagenic test data submitted by the registrant [on 2,4-dimethylaniline] and found a positive mutagenic response in one strain (TA 100) of bacteria (*S. typhimurium*). The data in three replicate dose-response curves appeared to be accurate and valid (Albert 1978a). *No mutagenic response was seen in the other four [Ames Test] strains of bacteria tested* [for 2,4-dimethylaniline]. (emphasis added)

With respect to the mutagenic test results on amitraz and metabolites other than 2,4-dimethylaniline, the Agency refers to page 18, second paragraph, of Position Document 3, which states:

> While the registrant submitted the results of several mutagenicity tests, *the CAG found the data insufficient for defining amitraz as a mutagen or non-mutagen, because of deficiencies in the protocols (Albert 1978e). The authors of those tests had reported that amitraz caused no response in those tests.* (emphasis added)

The Agency concluded in Position Document 3 that the single positive mutagenic result for 2,4-dimethylaniline, together with the induction of pulmonary tumors in the NCI bioassay by this chemical, are additional evidence that amitraz may pose a carcinogenic risk.

In sum, the Agency was not misleading in its dicsussion and use of the mutagenic test data for amitraz and its metabolites.

4. Overall Evaluation of the Oncogenicity of Amitraz

In Position Document 3 (pp. 15–19) the Agency evaluated the overall weight of evidence concerning the oncogenicity of amitraz. The data reviewed included the Boots rat and mouse bioassays on amitraz, the NCI rat and mouse bioassays on the metabolite 2,4-dimethylaniline, and Boot-Upjohn's mutagenic studies on amitraz and several metabolites. In response to Position Document 3, the Boots and Upjohn companies jointly submitted comments rejecting the Agency's findings with respect to these studies. The Scientific Advisory Panel, however, only commented upon the issue of lymphoreticular tumors in the Boots mouse study and reached its conclusions without addressing the NCI study on 2,4-dimethylaniline or the mutagenicity data. Nevertheless, the Agency has reviewed all the comments and data relevant to the oncogenicity of amitraz and concludes that the positive responses observed for amitraz and 2,4-dimethylaniline constitute weakly positive evidence that amitraz is a potential human carcinogen.

5. Risk Assessment

Commenter 2C(30000/12B) was concerned that the Agency has assumed that the potential oncogenic activity of amitraz is "real and definite" and that the Agency used "the most extreme pathological evaluation" for calculating risk. This commenter asserted,

> It is particularly unfair, we believe, that the recently published Notice of Determination gives no indication of the disparity in the several pathology evaluations, nor that the numerical risks cited are based on the most extreme opinion. To issue such a biased document to the public, and ask for comments, makes a mockery of a process which the Agency claims allows an open, balanced decision.

The Agency believes that Position Document 3, to which the Notice of Determination referred to as the Statement of Reasons, objectively and explicitly explained all facts, assumptions and steps used in estimating the risks associated with amitraz (see pp. 26–30, Position Document 3). In Position Document 3 the Agency was careful to caution, "the risk estimates are neither scientific certainties nor absolute upper limits, but are used by the Agency only as rough approximations of potential health risks." Contrary to the commenter's implication, the Position Document 3 discussed the results of *all* pathologists' reviews of the slides (pp. 16–17, Position Document 3) and noted that the risk estimates, in order to obtain an upper-bound estimate, were based upon Dr. Reuber's analysis. Further, footnote 3 of Table 4, entitled "Potential Risks Through Dietary and Occupational Exposure to Amitraz" (p. 29, PD3), made it distinctly clear that the risk numbers were founded on Dr. Reuber's count of the LR tumor incidences. Thus, it is apparent that the commenter has disregarded the discussion and explanations in Position Document 3, and that the Agency presented its risk calculations and estimates openly and objectively.

B. Comments Relating to Benefits

The Agency presented its analysis of the benefits of amitraz on pears and apples on pp. 31–49 of Position Document 3. During the rebutal period, comments and information were invited on the economic, social and environmental benefits of the pesticide, and this information was reviewed and considered in the development of Position Document 3. The USDA worked with the EPA to produce a Pesticide Impact Assessment (USDA, 1978), which provided the basis for the benefits analysis in Position Document 3.

1. Pears

No commenters objected to the agency's assessment of the benefits of amitraz on pears.

2. Apples

Several parties submitted statements and additional data on the use of amitraz on apples.

Commenter 2B(30000/12B) provided a large volume of efficiacy and benefits data for amitraz on apples. The commenter asserted that the need for new apple miticides is "very real," but cautioned that this need is not as well documented as the need for psyllicides on pears. In support of this position, the commenter made these points:

1. The use of amitraz on apples would be limited to the North Central and Eastern States, primarily for control of European red mites.

2. Amitraz would provide growers in these states an alternative miticide where they are having difficulty obtaining control with current miticides.

3. Amitraz would enable growers to reduce the development of mite resistance to current miticides.

4. Amitraz would be used in orchards where IPM programs have failed.

5. Amitraz would be used in IPM programs involving predator insects to which amitraz is not toxic.

6. Amitraz applcations may be timed to mitigate the adverse effect on predator mites, such as during the early season (pink or petal fall).

7. Amitraz could be applied late in the season as a "clean-up" spray to prevent mites from depositing over-wintering eggs in the calyx of the fruit.

8. In normal spray programs (petal fall and five cover sprays), amitraz has controlled white apple leafhopper and suppressed codling moth, leaf rollers, oriental fruit moth, San Jose scale and tentiform leaf miner; the results of these programs "suggest the possibility of reducing usage of other pesticides when amitraz is used for mite control."

9. The USDA/EPA Benefits Analysis overemphasizes the per-acre cost of amitraz versus alternative miticides; these figures "can change drastically as it is anticipated that as production of [amitraz] increases, as well as other developments, the price of [amitraz] may be considerably lower."

The Agency agrees with points 1, 2, 3, 4 and 5 made by the commenter, since these statements reiterated the findings of the USDA/EPA Benefits Analysis. That analysis had concluded that up to 52,000 acres of apples in the Eastern and North Central states would have been treated if amitraz had been available in 1978. The analysis had indicated that amitraz would likely be applied in rotation with other miticides to minimize the development of mite resistance in areas where growers were experiencing difficulty in controlling mites with current miticides. However, because several efficacious alternatives to amitraz exist the Agency considers these benefits to be speculative and insubstantial.

Further, the Agency believes that the other points made by the commenter are speculative and do not firmly establish any "real" benefits over and above those offered by currently registered miticides. Specifically, point (6) does not establish a benefit, since the commenter indicated that amitraz is "hard on predatory mites" and acknowledged that several of the alternative are "less harmful to predator mites" or "not highly toxic to predator mites."

On point (7), the Agency appreciates the needs of food processors for clean fruit. However, as indicated by the commenter's table on alternatives, some of the current miticides already have the capability to kill adult mites and thereby prevent egg-laying in the calyx of fruit at the end of the season.

Point (8) suggests the potential for reduced use of insecticides due to the suppressive activity of amitraz against certain insects. However, the Agency is of the opinion that while amitraz is possibly sufficient for light infestations of certain insect species, it will not preclude the necessity for insecticides against stronger attacks (Hutton 1979). The Agency also notes that amitraz has limited activity against codling moth and other lepidopterous pests, and very little or no activity against apple maggot and plum curculio. Further, only certain pest complex situations will reap the benefit of additional insect suppression, and the extent to which such situations may occur is not known.

Finally, regarding point (9), the Agency recognizes that the cost of amitraz could change as production increases in the United States. However, since the magnitude and direction of a price change cannot reliably be predicted, the Agency must rely on the present price in comparing the per-acre costs of this chemical to other miticides.

The USDA [#4(30000/12B)] urged that the Agency further explore the potential benefits of amitraz on apples by granting Experimental Use Permits under Section 5 of FIFRA. The reasons for their recommendations are listed in point #1 in the Secretary of Agriculture's letter in Appendix A.

The Agency's general response to the comments on benefits is that while amitraz is an efficacious miticide, there are other currently registered miticides which are also efficacious and cheaper. The Agency will continue to consider granting further experimental use permits, special local need registrations or emergency exemptions on apples or other crops on a case-by-case basis.

C. Comments Relating to Regulatory Options

1. Pears—Conditional Registration and Restricted Use

In Position Document 3, the Agency proposed to conditionally register amitraz for use on pears for 4 years. The conditions of registration were that the applicant for registration would have to repeat an oncogenic bioassay of amitraz in female mice, to submit additional benefits data, and to report annually on progress and test results. In Position Document 3 the Agency also proposed to initially classify amitraz for restricted use on pears and to modify the label to include these use instructions:

Restricted Use Pesticide. For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification.

General Precautions

A. Avoid getting in eyes, on skin or on clothing.

B. Avoid breathing vapors or spray mist.

C. In case of contact with skin, wash as soon as possible with soap and plenty of water.

D. If amitraz gets on clothing, remove contaminated clothing and wash affected parts of body with soap and water. If the extent of contamination is unknown, bathe entire body thoroughly. Change to clean clothing.

E. Wash hands with soap and water each time before eating, drinking, or smoking.

F. At the end of the work day, bathe entire body with soap and plenty of water.

G. Wear clean clothes each day and launder before reusing.

Required Clothing and Equipment for Mixing, Loading and Cleanup Procedures

1. Long-sleeve shirt (fine weave).
2. Long pants (fine weave).
3. Rubber gloves.
4. Apron.
5. Boots.

Required Clothing for Ground Spray Application:

1. Long-sleeve shirt (fine weave).
2. Long pants (fine weave).
3. Rubber gloves.
4. Boots.

Reentry Interval. Reentry into treated areas is prohibited until the leaves are completely dry, and in any event, until at least, 24 hours after application.

Preharvest Interval. Harvest of treated pears is prohibited until 7 days after application of amitraz.

The SAP and the USDA agreed with the Agency's proposal to conditionally register amitraz for use on pears for 4 years with a 24 hour reentry period and a 7 day preharvest interval. However, while the SAP was in favor of limiting use to certified applicators wearing protective clothing, the USDA opposed this. Specifically, the USDA objected to the classification of amitraz as a restricted use pesticide, and to the protective clothing requirements. The USDA argued against restricted use,

since the people applying pesticides to commercial fruit trees are knowledgeable in the handling of pesticides and since the proposed precautionary labeling would give them adequate protection. The USDA further asserted, "the 'Restricted Use' category should be limited to pesticides that, when used as directed, pose a substantial risk to the use and/or the environment." About the protective clothing requirements, the USDA stated that aprons are impractical and a cause of accidents around farm equipment, and that simultaneously requiring goves and washing the hands before eating, drinking or smoking seemed unnecessary.

The Agency believes that, because there is a risk of cancer for applicators, amitraz must be classified for restricted use. During application of this chemical, the additional risk of cancer to the individual ranges from one in ten thousand for groundspray equipment, to three in one million for aerial application. While these numbers may not appear significant, they are based upon an oncogenic study which must be repeaded due to uncertainties in the protocols and results. The outcome of the repeat study could indicate a greater risk than is reflected by the present Boots mouse study. It is important that the Agency take precautions to reduce exposure to the maximum extent possible. Therefore, the Agency believes that only certified applicators should apply amitraz. Further, the applicators for the commercial pear orchards are likely to be already certified and experienced with the use of amitraz under the Agency's emergency use permit during 1977 and 1978.

The Agency accepts the USDA's suggestions to delete the requirements for an apron, since the apron might cause accidents. However, the Agency rejects the USDA's request to delete the requirement to wear gloves and to wash one's hands before eating, drinking or smoking, since oral exposure to amitraz should be avoided.

While agreeing with the SAP's recommendations that another mouse study be conducted, that amitraz should be conditionally registered for 4 years, and that use restrictions should be imposed, commenter 2(30000/12B) did not concur with the Agency's requirement for submission of additional benefits data. The commenter preferred that the applicant for registration be allowed to determine whether to gather more benefits data for pears. The only reason given for this proposition opinion was that the Agency's requirement "is not reasonable."

The Agency stated clearly in Position Document 3 and still concludes that the data base used by the USDA Assessment Team for estimating the economic benefits of amitraz on pears was very weak, and that the Assessment Team's estimate was unreliable. Because the evidence suggests that amitraz poses a carcinogenic risk, the Agency anticipates that it will need empirical benefits data in order to determine whether full registration of amitraz for pears will result in any unreasonable adverse effects. Therefore, the Agency's stipulation that the applicant for registration submit additional benefits data on pears within 4 years of the date of conditional registration is a reasonable one. Neither the SAP nor the USDA objected to this data requirement.

The additional benefits data which will be required as part of the conditional registration for pears need to be specified. By "additional" data, the Agency means data in addition to that cited by the USDA Assessment Team which would support a more reliabe estimate of economic benefits. Such data should include:

(1) Actual cost of amitraz versus non-amitraz spray schedules.

(2) Tree loss in plots treated with amitraz versus control plots.

(3) Percent and gross pack-out for the different grades of pears from plots treated with amitraz versus control plots.

(4) Any other relevant economic data.

2. Apples

Position Document 3 proposed that the Agency deny the application for registration of amitraz on apples, since it was concluded that the risks outweighed the benefits for that use.

Both the SAP and USDA disagreed with the Agency's consideration of risks and benefits. About the potential cancer risks, the SAP stated, "the issue of oncogenicity of BAAM is sufficiently questionable that the restriction of the use of BAAM on apples is not warranted." USDA emphasized the potential benefits of amitraz's use on apples and the "promising results" obtained in the U.S. for amitraz on several crops and domestic animals. The Secretary of Agriculture recommended that all pending experimental use permits and applications for registration should be reevaluated "on their own merits." The Secretary's statement, although not clear, apparently advocates conditional registration of amitraz on apples.

Commenter 2C(30000/12B) was also critical of the Agency's position:

> We believe, frankly, that the reasons cited for denying availability of BAAM for use on apples even during the time required to repeat the study, are spurious and the conclusion therefore unwarranted. First, to claim a 'negative economic impact' which assumes that growers would use a product which did nothing more than less expensive products, and thus increase costs, is unrealistic. Second, to state that denial would eliminate a hypothetical risk of the infinitesimal magnitude estimated on the basis of the extreme 'worst case' assumptions cited, is meaningless. And then, to claim as a factor favoring denial that such action would result in continued use of other available products on which *comparable studies have not yet been carried out*, is scientifically unreasonable and socially irresponsible. We suggest that a more reasonable course would be to grant conditional registration for use on apples and thus more definitely evaluate the benefits which we believe can be demonstrated. I remind you again that amitraz products are registered for use on apples in various countries around the world, where benefits are recognized.
>
> Finally, We are also concerned for the development of further uses of amitraz under the proposed conditions. Our currently pending applications for Experimental Use Permits for use on cotton and citrus demonstrate potentially significant usefullness, while resulting in extremely low consumer dietary exposure. Such developmental programs should not arbitrarily be held up on the basis of the data and assumptions now being discusssed. (emphasis in original)

The agency stands by its conclusion that it cannot grant either full registration or conditional registration of amitraz for use on apples. The agency concludes that the Boots mouse study does not satisfy the agency's data requirements for full registration under Section 3(c)(5) of FIFRA. As noted in Position Document 3, the deficiencies of the Boots study and the uncertainty of its results make this study an inadequate basis for estimating cancer risks from long-term exposure to amitraz. The salient reasons for the Agency's decison not to grant conditional registration for the use of amitraz on apples are:

(1) *The benefits of amitraz do not outweigh the potential risks for a 4 year period.* The potential benefits of the use of amitraz on apples are not significant. As stated in Position Document 3, the available alternative miticides are just as efficacious and cost less than amitraz. At most, amitraz might be used on 10% of the U.S. apple acreage. Amitraz could be used in rotation with other miticides to slow the development of mite resistance to these chemicals, but the "benefit" of this practice is speculative and not measurable. The insect suppression exhibited by amitraz is limited and would only be useful in

certain pest complex situations. While amitraz appears to be less toxic to wildlife than the alternatives (except mineral oil), the actual hazards posed by amitraz and the alternatives to wildlife are not known. Oncogenic studies are not availbable for cyhexatin, but are available for propargite and mineral oil (Gregorio, 1979)l Lifetime feeding of propargite to rats showed no oncogenic acitivity. The National Cancer Institute has established the non-carcinogenicity of mineral oil through its use of this compound as a vehicle for mixing and intubating anaimals in many bioassays.

On the risk side of the scale, the Agency has determined that there is weakly positive evidence to indicate amitraz is a potential human carcinogen. Accordingly, applicators and persons eating treated fruit are believed to be exposed to a small cancer risk.

It is the Agency's conclusion that benefits would not exceed risks for a four year period of conditional registration, since the benefits of amitraz would be insignificant or speculative, some risk of cancer would be present, and efficacious and safe alternative miticides are available.

(2) *It is not in the public interest to approve the conditional registration of amitraz on apples.* Section 3(c)(7)(C) of FIFRA requires the Administrator to determine that it is in the public interest to conditionally register a pesticide. This is a stringent test which requires that the benefits of the use of a particular pesticide must be very great in relation to any potential risks associated with that use. As indicated previosly, the beneifts of the use of amitraz on apples are limited and speculative. As for the risks, a small carcinogenic risk would exist for applicators and for humans consuming treated fruit. Therefore, the public interest test has not been met.

III. Conclusions

After reviewing the comments from the Secretary of Agriculture, the Scientific Advisory Panel and others concerning Amitraz Position Document 3, the Agency has confirmed its determination to conditionally register amitraz for pears and to not grant either full or conditional registration for use on apples.

The label for pears will be modified as follows:

1. Delete apron as a requirement during mixing and loading.

The conditional registration for pears is contingent upon the applicant for registration agreeing to submit:

1. A repeat mouse oncogenic bioassay conducted in accordance with protocols approved by the Agency.

2. Additional economic benefits data detailed in section II.C.1. of this document.

3. Annual reports of progress and available test results.

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Appendix A. List of Comments

[1(30000/2B)]: Michael Dover. January 16, 1979. Environmental Protection Agency. Memo to J. Kempter, EPA.

[2(30000/2B)]: Dr. Ross R. Herr. February 2, 1979. The Upjohn Company. Letter to EPA Federal Register Section.

[2A(30000/2B)]: Dr. Ross R. Herr. December 20, 1978. The Upjohn Company. Letter to Scientific Advisory Panel appending two proprietary pathologists' reports.

[2B(30000/2B)]: The Upjohn Company. December 20, 1978. Volume of benefits data submitted to J. Kempter, EPA.

[2C(30000/12B)]: Dr. Ross R. Herr. January 25, 1979. The Upjohn Company. Presentation to the Scientific Advisory Panel.

[2D(30000/12B)]: Dr. Thomas J. Kakuk, D.V.M. January 25, 1979. The Upjohn Company. Presentation to the Scientific Advisory Panel.

[3(30000/12B)]: Dr. H. Wade Fowler, Jr. February 2, 1979. Scientific Advisory Panel. Review of 6(b) action on amitraz (BAAM).

[4/(30000/12B)]: Bob Bergland. February 14, 1979. U.S. Department of Agriculture. Letter to D. Costle, EPA.

[5/30000/12B]: Professor Angus J. Howitt. March 12, 1979. Cooperative Extension Service, East Lansing, MI. Letter to J. Kempter, EPA.

[6/30000/12B]: John R. Leeper and James P. Teete. March 19, 1979. New York State Agricultural Experimental Station. Letter to J. Kempter, EPA.

[7/30000/12B]: John Stover. April 2, 1979. Consulting Service, Fennville, Michigan. Letter to J. Kempter, EPA.

Appendix B—Comments by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on amitraz pesticide products under the provisions of Section 6(b) of FIFRA as amended. The review was completed after an open meeting was conducted in Arlington, Virginia, during the period January 25–26, 1979.

Maximum public participation was encouraged during formal review of all aspects of the conclusion of the RPAR on amitraz. **Federal Register** notices announcing meetings in October, November, and January were published in the **Federal Register** on October 16, 1978, October 30, 1978, and January 18, 1979, respectively. The meeting announced in the **Federal Register** notice dated October 30, 1978, for November 15 and 16, 1978, was cancelled and rescheduled for January. In addition, telephone calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel. Written statements relative to regulatory action on amitraz were received over a period of several weeks from the Upjohn Company and Boots Ltd.; and expert witnesses which submitted documents in behalf of the Upjohn Company and Boots Ltd.; the Carcinogen Assessment Group of EPA; and EPA technical staff. In addition, oral comments were received from EPA staff; USDA staff; expert witnesses from New York State Agricultural Experiment Station; Cooperative Extension Service, University of California; Mid-Columbia Experiment Station, Oregon State University; members of the pesticide industry; and the general public.

In consideration of all matters brought out during Panel meetings, matters detailed in written and oral statements, and careful study of all documents submitted by the Agency, the Panel submits the following report on amitraz:

The trigger for the RPAR on BAAM is oncogenicity. The oncogenic potential of BAAM was raised initially by the pathologists of Boots Ltd. on the basis of a study in mice. The oncogenic potential of BAAM in this study was confirmed on reexamination of these data by Dr. Rueber, a consultant to EPA. A subsequent examination of these same data by Dr. Dubin, another consulting pathologist to EPA, failed to confirm a statistically significant increase in lymphoreticular tumors. However, in a reexamination of the data jointly by Dr. Dubin and Dr. Squire, another consulting pathologist to EPA, indicated a statistically significant increase in lymphoreticular tumors in the BAAM exposed mice. Finally, a recent reexamination of the data by Dr. Lancaster, a pathologist for Boots Ltd. and Dr. Kakuk, a pathologist for the Upjohn Company, failed to reveal statistically significant differences in tumor incidence between BAAM exposed animals and untreated controls. From consideration of all these data, the Panel is of the opinion that a statistically significant increase in mouse lymphoma in BAAM treated mice has not been shown.

The FIFRA Scientific Advisory Panel agrees with the regulatory option under consideration by EPA for the use of BAAM on pears. This includes the use by certified applicators, an increased preharvest interval, the use of protective clothing, and reentry restrictions. As noted previously we are also recommending that a new mouse oncogenicity study be carried out.

The FIFRA Scientific Advisory Panel does not agree with the regulatory option choosen by the EPA for use of BAAM on apples. The Panel is of the opinion that the issue of oncogenicity of BAAM is sufficiently questionable that the restriction of the use of BAAM on apples is not warranted. The Panel is of the opinion that BAAM may prove to be of value in mite control on apples in some geographic areas of the United States. The Panel also believes that the restriction of the experimental use of BAAM on other crops is not warranted from the current human risk data.

Comments by the Secretary of the U.S. Department of Agriculture

This is the United States Department of Agriculture's response to the U.S. Environmental Protection Agency's (EPA) Notice of Determination pursuant to 40 CFR 162.11 (a)(5), concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Amitraz (BAAM).

The Department of Agriculture and State Cooperators, under the National Agricultural Pesticide Impact Assessment Program (NAPIAP), recognize the need to interact with EPA in developing biological, economic and exposure information according to the current Memorandum of Understanding between the Department and the Agency. We are also pleased to have the opportunity to review and comment on the Notice of Determination and the accompanying position document. We are dedicated to the mutual resolution of issues including health risks to applicators, farm workers, and consumers as well as possible adverse impacts on wildlife, non-target organisms and/or the environment.

We concur with EPA's selection or regulatory options that are consistent with the biological and economic assessments.

We, therefore, commend the decision that amitraz be retained for further evaluation under a "Conditional Registration" for four (4) years for use on pears with a one (1) day (24 hour) re-entry period and a seven (7) day preharvest interval.

The Department, however, believes the following concerns should be taken into consideration by the Agency in the development of the final regulatory decision:

1. We believe Experimental Use Permits for amitraz should be considered for use on apples. There are potential benefits for this use which should be explored. Permits should be granted to all states that express an interest and agree to demonstrate potential values with appropriate research and field evaluation. The reasons for this recommendation are:

a. The two most widely used miticides for apples control only the mobile mite forms, while amitraz controls not only this form, but also the eggs and resting forms. Also, these materials are usually limited to postbloom and summer sprays. Amitraz has the versatility of being applied on a selective, as needed basis over the entire growing season, which permits use according to local conditions and circumstances.

b. It is true that amitraz is more costly to apply when compared to the other registered materials for mite control. However, amitraz also controls and/or suppresses other apple insect pests. When these "other" pests are a problem, additional insecticides must be applied for their control.

c. Amitraz may be a useful and needed tool in those areas where resistance to conventional miticides has been demonstrated.

d. Amitraz could be useful in apple growing areas as a late season "clean-up" spray to reduce overwintering populations.

It is probably true that amitraz will not perform significantly better than the registered apple miticides. However, when its relative safety, additional insects suppressed and/or controlled, usefulness in areas of resistance, and minimal hazard potential from ingestion of residues from treated fruit are considered, this action is warranted.

2. We have reservations on the practicality and enforceability of some of the Protective Clothing Regulatory Options under the General Precautions Section. Aprons are impractical and would cause a greater risk of accidents when working around equipment. Considering the relative safety of amitraz, we do not understand the necessity for requiring both rubber gloves and the carrying of wash water and soap into the field for hand washing each time before eating, drinking, or smoking. We concur with the other General Precautions which provide adequate protection in this regard.

3. We do concur with the proposal to classify amitraz as a "Restricted Use Pesticide." The information presented to users in the certification training program for general and "Restricted Use" is that classification for "Restricted Use" really implies a definite concern over and above the precautions normally exercised in the handling, mixing, and application of pesticides. These precautions have been emphasized by registrants in labeling and in the education programs of Cooperative Extension for many years. All States have on-going educational programs and the people applying pesticides to commercial fruit trees are knowledgeable in the handling of pesticides. It is unreasonable to assume that when these applicators apply amitraz, they are going to relax, in any way, their application procedures. The highest exposure potential to amitraz is during mixing, loading, or application of the product. Again, the proposed precautionary labeling for protective clothing adequately covers this area.

We support the concept of "Restricted Use" and have devoted considerable time and funding to the development of State programs for certification. However, we believe that the "Restricted Use" classification should be limited to those pesticides that, when used as directed, pose a substantial risk to the user and/or the environment. We do not believe that amitraz falls into this category and strongly feel that a classification of "Restricted Use" may further dilute the sense of caution which should accompany "Restricted Use" pesticides.

World wide registrations have been obtained for amitraz not only on apples and pears but also on fruits, vegetables, hops, citrus, cotton, sheep, cattle and pigs. In the U.S., promising results have been obtained for mite control on citrus, strawberries, swine, dogs, and for the bollworm complex on cotton. American Agriculture should have the benefit of any effective pest control measures after they have been adequately researched and registered. We feel that the Experimental Use Permits (EUP) and pending registrations for amitraz now held in abeyance by EPA because of the RPAR should be put back into the review process and evaluated on their own merits given the useful information and understanding that has resulted from this RPAR activity.

We are confident EPA will give favorable consideration to these suggestions and recommendations in developing the final amitraz regulatory decisions. The opportunity to have cooperated on this important agricultural matter is very much appreciated by us as well as the whole agricultural community. Please let us know if additional information would be helpful.

[FR Doc. 79-32018 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180369; FRL 1339-6]

Kansas State Board of Agriculture; Issuance of Specific Exemption To Use Permethrin on Field Corn To control Southwestern Corn Borer

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

ACTION: Issuance of specific exemption.

SUMMARY: EPA granted a specific exemption to the Kansas State Board of Agriculture (hereafter referred to as the "Applicant") to use permethrin on a maximum of 358,415 acres of field corn to control the southwestern corn borer. The specific exemption expired on September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. 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: The corn borer is a serious pest of irrigated corn in much of the southwestern region of Kansas. It has been found in Kansas since 1913. On at least two occasions (1940 and 1954), the corn borer damage seriously curtailed corn production in the State. The Applicant expressed concern that many growers might stop corn production if satisfactory control of the pest was not achieved. The Applicant estimated a loss of 10,708,565 bushels of corn (valued at $32,125,695) without the use of permethrin.

Diazinon, Sevimol, and Furadan are currently registered for control of the southwestern corn borer. According to the Appplicant, Diazinon and Sevimol are ineffective, and Furadan is effective only under conditions of perfect timing.

The Applicant proposed to make a maximum of two applications of permethrin (Pounce and Ambush) using air or ground equipment. A 30-day pre-harvest interval was to be imposed.

EPA determined that the proposed use should not result in residues of permethrin of more than 0.05 part per million (ppm) in field corn, and 2.0 ppm in forage and fodder, provided that a 30-day pre-harvest interval was observed. These levels were judged by EPA to the adequate to protect the public health. Established meat and milk tolerances would not be exceeded as a result of feeding forage and fodder. Because of permethrin's toxicity to fish and other aquatic organisms, and bees, appropriate restrictions were imposed. The use of permethrin under this specific exemption was not expected to present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of southwestern corn borer had occurred or was likely to occur; (b) there was no effective pesticide currently registered and available for use to control the southwestern corn borer on Kansas; (c) there were not alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems might result if the southwestern corn borer was not controlled; and (e) the time available for action to mitigate the problems posed was insufficient for a pesticide to be registered for this use. Accordingly, the Applicant was granted a specific exemption to use the pesticide noted above until September 10, 1979, to the extent and in the manner set forth in the application. The specific exemption was also subject to the following conditions:

1. The products Ambush 2E, manufactured by ICI Americas, Inc., and Pounce 3.2 EC, manufactured by FMC Corporation, might be applied at a rate

of 0.1 to 0.2 pound active ingredient per acre;

2. A maximum of two applications of permethrin might be made;

3. The applicant was to establish criteria which were to be used in determining when emergency conditions existed. The existence of these conditions was to have been determined prior to the application of permethrin in a given area. This determination was to have been made by an employee of the Applicant or of the State Extension Service, or by a knowledgeable expert who was licensed by, or under the direct supervision of, the Applicant;

4. No individual was to use permethrin until it had been determined that emergency conditions existed in the area in which the user grew corn. Growers were to obtain authorization from the applicant to use permethrin and the applicant was to regulate pesticide dealers to limit distribution and sale to areas of actual or projected emergency. Records were to be kept regarding the amounts of each product sold and applied, total acreage treated, and general benefits realized from the treatments. All unused, unopened containers were to be returned to the manufacturer after the end of the 1979 season;

5. A maximum of 358,415 acres were to be treated;

6. Applications were to be made with air or ground equipment with a minimum spray mixture volume of three gallons of water per acre;

7. Applications were to be made by State-certified commercial applicators;

8. Ambush and Pounce are toxic to fish. The products were to be kept out of any body of water. They were not to be applied where excessive run-off was likely to occur. They were not to be applied when weather conditions favored drift from treated areas. Care was to be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

9. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It was not to be applied or allowed to drift to weeds on which an economically significant number of bees were actively foraging. Protecive information was to be obtained from the State Cooperative Agricultural Extension Service;

10. Residue levels of permethrin were not expected to exceed 0.05 ppm in corn grain and 2.0 ppm in forage and fodder. Corn grain (except popcorn) and forage and fodder with residues which are not in excess of these levels may enter interstate commerce. The existing meat and milk tolerences will not be exceeded as a result of this use of permethrin. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, was notified of this action;

11. A 30-day pre-harvest interval was to be observed;

12. A 60-day crop rotation restriction was imposed;

13. The EPA was to be immediately informed of any adverse effect resulting from use of permethrin in connection with this specific exemption;

14. The Applicant was responsible for assuring that all of the provisions of this specific exemption were met and must submit a report summarizing the results of this program by February 15, 1980; and

15. Since inadequate data existed concerning the propensity of permethrin to enter aquatic ecosystems, field monitoring in accordance with an EPA monitoring program was required.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32019 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1335-7]

List of Toxic Pollutants; Petition To Remove Aromatic Haloethers; Final Action

AGENCY: United States Environmental Protection Agency.

ACTION: Denial of petition to remove aromatic haloethers from list of toxic pollutants under section 307(a) of the Clean Water Act, as amended, 33 USC 1317(a).

SUMMARY: This action gives notice of denial of a petition to remove aromatic haloethers from the toxic pollutant list. It addresses comments received on the proposal to deny, reviews additional information regarding these chemicals, and affirms that aromatic halothers be retained on the toxic pollutant list.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460 (202-755-0100).

SUPPLEMENTAL INFORMATION: On June 7, 1978, the Agency received a petition from the Dow Chemical Company requesting that aromatic haloethers, found under the general class haloethers, be removed from the toxic pollutant list under Section 307(a) of the Clean Water Act.

EPA reviewed the information submitted by Dow in support of its petition as well as other available information and concluded that aromatic haloethers should be retained on the list. A proposed denial and request for public comments was published on March 27, 1979 (44 FR 18279). Three respondents submitted comments.

The General Electric Company objected to an Agency statement suggesting that highly toxic dibenzofurans and dibenzodioxins were formed when PCBs were used in electrical capacitors or exposed to the environment. This statement was based on the assertion of Dow that "the toxicity of PCBs has been attributed in part to acnegenic impurities such as the chlorinated dibenzodioxins and chlorinated dibenzofurans."

A review of the literature indicates that the Agency's statement in the notice was partially inaccurate. Chlorinated dibenzofurans have been found in some commercially prepared PCBs (Vos et al., 1970) and have been shown to be formed when PCB's are used in heat exchangers (Roach and Pomerantz, 1974; Nagayama et al., 1976). Data are not sufficient to assess the possiblity of chlorinated dibenzofuran formation from PCBs while in electrical capacitor or trnasformer service but to date these contaminants have not been found under these use conditions. Despite occasional statements that commercial PCBs may contain polychlorinated dibenzo-p-dioxins, there appear to be no authenticated reports of their presence in PCBs or any reports on their formation from PCBs under industrial use or environmental exposure conditions.

Dow Chemical U.S.A. submitted eight specific comments.

(1) Dow asserted that the report (Kloepfer, 1977) of a single occurrence of a bromochlorodiphenyl oxide in the oil of a waste pit, cited by the Agency, does not demonstrate known occurrence in point source effluents, in aquatic environments, in fish and/or drinking water. Contrary to Dow's assertion, the Kloepfer (1977) report indicates that three bromophenylchlorophenyl ethers were found (86,000 ppm w/w) in the contents of the waste pit and that at least one of the ethers was found in soils, sediments, and aquatic biota, including fish in water surrounding and adjacent to the pit. Gas chromatographic analysis of the oil also suggested the presence of monochlorodiphenyl oxide isomers.

The Agency has also obtained additional information demonstrating the presence of aromatic haloethers in the aquatic environment. At least eight fully aromatic or aromatic-alklyhaloethers have been found in raw and finished drinking water (Schackelford and Keith, 1976; Ewing, et al., 1977; Friloux, 1971; U.S. EPA, 1972). For instance, the analysis of 204 water samples collected from 14 heavily industrialized river basins indicated the presence of pentachlorophenyl methyl ether in 12 samples (5.88%) (Ewing, et al., 1977). In addition bis (4-chlorophenyl) ether, dichlorophenyl chlorophenyl ether, and 2,4,4'-trichloro-2'-hydroxydiphenyl ether were found in at least 1 water sample. These four compounds were also found in at least one sample of several industrial effluent samples (Schackelford and Keith, 1976). Thus, EPA believes it is reasonable to conclude that aromatic haloethers are found in points source discharges and the aquatic environment.

(2) Dow asserted that the Agency ignored the structural and chemical reactivity dissimilarities between aliphatic and aromatic haloethers in terms of their physical and toxicological properties, particularly with respect to trying to link carcinogenicity of some aliphatic haloethers to that property for the aromatic compounds. EPA made no suggestion of carcinogenicity for aromatic haloethers nor did it see a need to discuss structural and chemical reactivity dissimilarities between the two classes of compounds. The Agency considered the properties of individual aromatic holoethers in deciding to retain these compounds on the toxic pollutant list. Dow also stated that certain functional groups, such as the nitro group, impart toxicity to the aromatic haloethers which are not common to the category in general and that data on the nitro substituted aromatic ethers should be used to place nitroaromatic haloethers on the list, rather than to retain the entire class. Dow did not submit comparative toxicological data for the non-nitro analogue that could be compared to the nitrated aromatic haloether mentioned in the proposed Agency action. Finally, since the petition sought removal of the entire class of aromatic haloethers, the Agency has no choice but to consider all compounds in this class including nitrated derivatives.

(3) Dow asserted that the Agency ignored the data which showed no effect to rabbits from monochlorodiphenyl ether. These data were included in Table 3 (44 FR 16281) in the Agency proposed action. The negative results of monochlorodiphenyl ether were not cause to grant the petition, however, since the higher chlorinated compounds demonstrated significantly toxicity.

(4) Dow objected that the Agency ignored the results of tests it asserts showed the absence of dibenzofurans and dibenzodioxins in Dow's dielectric fluid after use in capacitors or after environmental exposure. The Agency acknowledges that the results of a bioassay run on freshly prepared dielectric fluid and on the fluid from highly stressed capacitors did not indicate the presence of acnegenic impurities in either fluid. However, this bioassay cannot conclusively prove the presence or absense of chlorinated dibenzofurans or dioxins. A more appropriate technique for demonstrating the presence of absence of these compounds is gas chromatography (gc)-mass spectrophotometric (ms) analysis, a highly sensitive procedure. Although Dow submitted gc-ms analysis of freshly prepared dielectric fluid, it submitted no such analysis of the highly stressed capacitor fluid.

(5) Dow challenged EPA's conclusions about persistence and accumulation of aromatic haloethers on the grounds that the Agency considered properties of the aromatic haloethers individually, rather than collectively. Contrary to Dow's assertions, the Agency considered collectively several physical properties such as vapor pressure and water solubility, as well as Dow's bioconcentration data to conclude that aromatic haloethers, as a class, would be expected to persist in water and/or sediment and bioconcentrate in aquatic organisms. Dow offered no direct empirical data to refute these conclusions. Instead, Dow argued that the aromatic haloethers were not persistent or bioaccumulative because a few members of the haloether class were less persistent and bioaccumulative than a PCB isomer. However, PCB's are extremely persistent and accumulative. The fact that aromatic haloethers may be less persistent and bioaccumulative than PCB's does not demonstrate that the former are not persistent or bioaccumulative.

(6) Dow criticized the Agency's statement that additional bioconcentratiion data were needed before it could be concluded that aromatic haloethers had low bioconcentration potential. As stated in the proposed denial, Dow had submitted data showing that at least two compounds bioconcentrate several hundred fold in trout muscle and argued that since these figures were considerably lower than bioconcentration figures for PCB's, the bioconcentration potential of aromatic haloethers was insignificant. EPA does not agree. Although the haloether data show less bioconcentration potential than that of a PCB isomer, the haloether data show a significant potential for accumulation of these compounds or other compounds in the class in tissue of aquatic organisms. By calling for additional bioconcentration data, the Agency was attempting to determine if the same high degree of bioconcentration exhibited by the two compounds mentioned by Dow exist for other aromatic haloethers as well.

(7) Dow asserted that since the rates of appearance for $14CO_2$ and disappearance for ring-labelled 4-chlorophenylphenyl ether are similar it could be concluded that no stable degrates were formed. Since no such rate data were presented in Dow's supporting documentation, EPA can only concludes that the absence of stable degrates has not been demonstrated.

(8) With its comments, Dow submitted additional data on octabromo diphenylether showing toxicity and bromide residues in rats. Dow appears to argue that these data should not detract from its petition because Dow did not commercialize this compound. This reasoning is spurious. The demonstration of toxic potential from yet another member of the class of aromatic haloethers, whether commercialized or not, is further evidence that the class should not be removed from the toxic pollutant list.

At the conclusion if its comments, Dow suggested that all aromatic haloethers be delisted except for specific compounds demonstrated to present unusual hazard to man and the environment. Dow's petition sought removal of the entire class of aromatic haloethers. Demonstration that one member of a class does not possess a specific property which calls for listing does not prove that this member does not possess other properties which warrant listing. Still less does it demonstrate that the entire class should be delisted. For reasons noted in the proposed denial and the Agency's review of Dow's comments on that proposal, the petition must be denied.

Comments from the Food and Drug Administration supplied further information supporting retention of aromatic haloethers on the toxics list. FDA pointed out that there are a number of aromatic haloethers in addition to the ones mentioned in the agency's response to the petition which should be of concern as potential environmental contaminants.

—Chlorinated diphenyl ether (Cl_7 to Cl_{10}) were found in fish collected in 1977 following a fish kill in a lake in Mississippi resulting from a spill of waste pentachlorophenol.

—The estimated annual production of decabromodiphenyl ether is 10 to 12 million pounds.

—Several other aromatic haloethers are believed to be produced in commercial quantities. Among them is 2,4,4'-trichloro-2'-hydroxydiphenyl ether, a compound that could potentially form a chlorinated dioxin under manufacturing conditions or environmental exposure.

Action: EPA hereby denies the Dow Chemical Company's petition to remove aromatic haloethers from the list of toxic pollutants under section 307(a) of the Clean Water Act, as amended, 33 USC 1317(a).

Dated: October 10, 1979.

Douglas M. Costle,

Administrator.

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[FR Doc. 79–32010 Filed 10–16–79; 8:45 am]

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[FRL 1339–2; OPP–180364]

New Mexico Department of Agriculture; Issuance of Specific Exemption To Use Permethrin or Fenvalerate To Control Heliothis Species on Lettuce

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

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the New Mexico Department of Agriculture (hereinafter referred to as the "Applicant") to use permethrin or fenvalerate to control *heliothis* species on 6,000 acres of lettuce in New Mexico. The specific exemption expires on June 1, 1980.

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: 202/426–0223. 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: *Heliaothis virescens* and *H. zea* migrate from cotton to lettuce after the cotton is defoliated. In the past, growers plowed the cotton under after harvest. Now, however, the cotton is allowed to stay in the fields and thereby provides an excellent habitat for the pest. According to the Applicant, registered insecticides failed to control *Heliothis* spp. in cotton in 1977 and 1978. The Applicant stated that a fifty percent infestation of *Heliothis* spp. was found in New Mexico's fall lettuce crop, and approximately two to three percent of the 1978 lettuce fields were not harvested due to the lack of control of *Heliothis* spp. by available pesticides. The Applicant anticipated that losses of up to $6 million initial investment could result to lettuce producers in New Mexico without sufficient control of *Heliothis* spp.

The Applicant proposed to use permethrin (manufactured by ICI Americas, Inc. as Ambush, EPA Reg. No. 10182–18, and by FMC Corp. as Pounce 3.2 E.C., EPA Reg. No. 279–3014), or in the event of insufficient stocks of permethrin, fenvalerate (manufactured by Shell Chemical Co. as Pydrin, EPA Reg. No. 201–401). Permethrin or fenvalerate would be applied at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre by ground or air equipment with a maximum of five applications made at 5- to 7-day intervals.

EPA has determined that residue levels of permethrin and fenvalerate should not exceed 10 parts per million (ppm) and 1 ppm, respectively, on lettuce, from the proposed use. EPA has judged these levels to be adequate to protect the public health. EPA has also determined that the proposed use should not pose an unreasonable hazard to the environment. Since permethrin and fenvalerate are known to be highly toxic to aquatic vertebtrates and invertebrates and to bees, appropriate conditions have been imposed.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Heliothis* has occurred; (b) there is no effective pesticide presently registered and available for use to control this pest in New Mexico; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if *Heliothis* 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 pesticide noted above until June 1, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The permethrin products Ambush, EPA Reg. No. 10182–18, and Pounce, EPA Reg. No. 279–3014, may be used at a maximum dosage rate of 0.2 pound a.i. per acre;

2. In the event that a sufficient quantity of permethrin is not available for this use, the fenvalerate product Pydrin, EPA Reg. No. 201–401, may be used at a maximum dosage rate of 0.2 pound a.i. per acre;

3. Available data indicate that the 0.1 pound a.i. rate should provide as good a control as the 0.2 pound a.i. rate in most situations. Therefore, in most instances the 0.1 pound a.i. rate should be recommended;

4. Applications are limited to 6,000 acres of lettuce in New Mexico;

5. A maximum of five applications may be made per season at 5- to 7-day intervals with a 7-day pre-harvest interval;

6. Applications may be made by either air or ground equipment;

7. Lettuce will be field-trimmed to remove wrapper leaves;

8. The feeding of trimmings of lettuce from treated fields to livestock is prohibited;

9. All applicable directions, restrictions, and precautions on the product label must be followed;

10. These pesticides are extremely toxic to fish and aquatic invertebrates. They must be used with care when being applied in areas adjacent to any body of water. They may not be applied when weather conditions favor run-off or drift. They must be kept out of lakes, streams, and ponds. Care must be taken so as not to contaminate water by cleaning of equipment or disposal of wastes;

11. Permethrin or fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height; aerial (10 ft.), ground (2 ft.)
Application rate (lbs. active ingredient) permethrin—0.05, 0.1, 0.2, .05, 0.1, 0.2.
Freshwater (distance in feet)—585, 990, 1600, 117, 198, 320.
Application method and height; aerial (10 ft.), ground (2 ft.)
Application rate (lbs. active ingredient) fenvalerate—0.05, 0.1, 0.2, 0.05, 0.1, 0.2.
Freshwater (distance in feet)—1,847, 2,779, 3,950, 369, 556, 790.

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

12. These products are highly toxic to bees exposed to direct treatment or residues on crops or weeds. They 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 Extension Service;

13. A 60-day crop rotation restriction is imposed for permethrin. For fenvalerate: root crops may not be planted for 12 months after last application; no other crop may be planted for 60 days after the last application;

14. Only fields where registered alternatives have been applied, and a knowledgeable expert determines that control has not been achieved, may be treated under this exemption;

15. The EPA shall be immediately informed of any adverse effects resulting from use of these pesticides in connection with this exemption;

16. Lettuce with residue levels of permethrin not exceeding 10 ppm or of fenvalerate not exceeding 1 ppm, may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been informed of this action; and

17. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a final report summarizing the results of this program to EPA by December 1, 1980.

Statutory Authority: Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32023 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180366; FRL 1339-5]

New York Department of Environmental Protection; Issuance of Specific Exemption To Use Permethrin To Control Cabbage Looper on Cabbage

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

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the New York Department of Environmental Protection (hereafter referred to as the "Applicant") to use permethrin on 11,000 acres of cabbage in New York to control the cabbage looper. The specific exemption expires on October 30, 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: 202/426-0223. 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: The Applicant anticipates that an emergency situation will develop with respect to cabbage loopers on cabbage in upstate counties of New York. The Applicant contends that if the cool weather sets in during the last 35 days of cabbage growth, the cabbage looper will not be controllable. The Applicant claims that use of the pesticides registered for control of the cabbage looper is not practicable because:

1. The pesticide Phosdrin is not very effective against the pest and its residual action is short;

2. The pesticide Diazinon has not been effective in New York for many years;

3. Methomyl and *Bacillus thurengiensis* do not control the cabbage looper when temperatures are low; and

4. While Monitor generally controls the pest, it may not be used within 35 days of harvest. This 35-day pre-harvest internal is a critical period for cabbage due to the unusually high infestation of the cabbage looper.

The Applicant estimates that cabbage growers in New York could lose 30 to 50 percent of their crop, if permethrin is not available.

The Applicant proposes to use permethrin in the New York counties of Erie, Livingston, Madison, Monroe, Niagara, Onondaga, Ontario, Wayne, and Yates. Application would be made in fields within 35 days of harvest. More than 50 percent of the fields checked in a county would have to be infested with cabbage loopers in numbers greater than one to two loopers per plant, as determined by research or Cooperative Extension personnel. Application would be made only when anticipated average daily temperature during the spray period is below 80 degrees F during the day and/or 55-60 degrees F at night.

EPA has determined that residues of permetrin in or on cabbage should not exceed 3 parts per million (ppm) from the proposed use. EPA has judged this level to be adequate to protect the public health. No unreasonable hazard to the environment is anticipated from this program. Since permethrin is highly toxic to aquatic vertebrates and invertebrates and to bees, appropriate conditions to protect them have been imposed.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of cabbage loopers is likely to occur; (b) there is no effective pesticide presently registered and available for use to control the cabbage looper in New York; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the cabbage looper is not controlled; and (e) the time available for action to mitigate the problems posed is insufficent 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 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. 10182-18), manufactured by ICI Americas, Inc., and Pounce 3.2 E.C. (EPA Reg. No. 279-3014), manufactured by FMC Corp., may be used;

2. Total acreage of cabbage to be treated may not exceed 11,000 acres;

3. A maximum of 4,400 pounds of active ingredient (a.i.) may be applied at a maximum rate of 0.1 pound a.i. per acre;

4. A maximum of four applications is authorized;

5. A one-day pre-harvest interval is imposed;

6. All applications will be made by State-certified commercial applicators or by qualified growers;

7. A 60-day crop rotation restriction is imposed for all crops that do not have permanent tolerances for permethrin;

8. Permethrin will be applied by ground or aerial equipment in a spray volume of 5 to 100 gallons per acre;

9. Permethrin may be applied to cabbage fields only when:

a. Fields are to be harvested within 35 days;

b. More than 50 percent of the fields checked in a county are infested with numbers greater than 1–2 loopers per plant (checking is to be done by research or Cooperative Extension personnel); and

c. Anticipated average daily temperature during period spray is to be applied is below 80 degrees F during the day and/or 55–60 degrees F at night;

10. Permethrin should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method: aerial, ground.
Application height—10 feet, 2 feet.
Application rate (lbs. A.I.)—0.05, 0.1, 0.2, 0.05, 0.1, 0.2.
Fresh water (distance in feet)—585, 990, 1,600, 117, 198, 320.
Salt water (distance in feet)—1,847, 2,779, 3,950, 369, 556, 790.

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills;

11. Participants are to be notified of their obligation to report any adverse effects on non-target organisms arising from the use of these products. The EPA shall be immediately informed of any adverse effects resulting in connection with this specific exemption;

12. Precautions must be taken to avoid or minimize spray drift to non-target areas;

13. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which a significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Extension Service;

14. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, ponds, tidal marshes and estuaries. Care must be taken to prevent contamination of water by cleaning of equipment or disposing of wastes;

15. Cabbage with residues of permethrin not exceeding 3 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

16. Cabbage trimmings from treated fields must not be fed to livestock;

17. All applicable directions, restrictions, and precautions on the product labels must be adhered to; and

18. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1980.

Statutory Authority: 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: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32020 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1340-8]

Particulate Emissions From Kennecott Copper Smelter, McGill, Nev.; Order Disapproving Temporary Emergency Suspension of an Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Order Disapproving Temporary Emergency Suspension of the Nevada State Implementation Plan Under Section 110(g) of the Clean Air Act.

SUMMARY: It is hereby ordered that the temporary emergency suspension of the Nevada State Implementation Plan (SIP) issued by the Governor of Nevada on September 18, 1979, is disapproved. The Governor's suspension was issued under Section 110(g) of the Clean Air Act and would allow the Kennecott copper smelter in McGill, Nevada, to operate in violation of the particulate matter emissions limitation in the present SIP, and thereby possibly violate the national ambient air quality standards. The basis for the Governor's Section 110(g) suspension was a proposed revision of the Nevada SIP submitted to EPA on September 18, 1979, the same day that the Governor's suspension was issued. Section 110(g) provides that a suspension of the SIP cannot be issued unless EPA has failed to act on a proposed SIP revision within four months after its submittal to EPA by the State. Consequently, this order is invalid on its face and must be disapproved.

DATES: This disapproval order was effective upon signature by the Administrator on October 11, 1979.

FOR FURTHER INFORMATION CONTACT: David Mowday, Chief, Air and Hazardous Materials Branch, Enforcement Division, 215 Fremont Street, San Francisco, California 94105, Environmental Protection Agency, Region IX, 415–556–6150.

SUPPLEMENTARY INFORMATION: On August 24, 1979, Nevada Governor Robert List signed an executive order, pursuant to Section 110(g)(1) of the Clean Air Act, 42 U.S.C. 7410(g)(1). The order suspended "Articles 4.1 and 7.2.1 of the State of Nevada Air Quality Reguations, and related regulations, insofar as they limit emissions of particulate matter from the smelter of Kennecott Minerals Company at McGill, Nevada". Those articles and regulations constitute a portion of the federally-approved Nevada State Implementation Plan (SIP) for the control of particulate matter.

On September 6, 1979, the Administrator disapproved the suspension pursuant to Section 110(g)(2) of the Act, because the proposed SIP revision on which the Governor's suspension was based did not demonstrate attainment and maintenance of national ambient air quality standards, and thus clearly did not meet the requirements of Section 110 of the Act (44 FR 53305, September 13, 1979).

By letter dated September 18, 1979, Governor List informed the Administrator that he had submitted another revised SIP, and that he had issued another temporary emergency suspension, again suspending "Articles 4.1 and 7.2.1 of the State of Nevada Air Quality Regulations, and related regulations, insofar as they limit emissions of particulate matter from the smelter of Kennecott Minerals Company at McGill, Nevada".

Section 110(g)(1) allows a governor to suspend a portion of a state implementation plan if a proposed SIP revision has been submitted "which the Administrator has not approved or disapproved under this section *within the required four month period*". (Emphasis added.) The Governor has found that such suspension is necessary to prevent the closing of the McGill smelter and to prevent substantial increases in unemployment which would result from such a closing.

Governor List states that he submitted the revised SIP to EPA on September 18, 1979. A temporary emergency suspension of that revised SIP is not permitted by the Act until the required four month period has elapsed. Consequently, even if all of the other criteria are met, a temporary emergency suspension of the revised SIP is not legally permissible until January 18, 1980, and then only if EPA has not acted on the revised SIP by approving or disapproving by that date. Therefore, the most recent suspension is premature, and the Act mandates disapproval.

This disapproval order is a final action which is locally applicable for the purposes of Section 307(b)(1) of the Clean Air Act. Therefore, judicial review is available only in the United States Court of Appeals for the Ninth Circuit. A petition for review must be filed on or before December 17, 1979.

Dated: October 11, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-32009 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1339-1; OPP-C31032]

Receipt of Application To Conditionally Register Pesticide Product Entailing a Changed Use Pattern

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

ACTION: Notice of receipt of application.

SUPPLEMENTARY INFORMATION: Stauffer Chemical Co., 1200 So., 47th St., Richmond, CA 94804, has submitted to EPA an application to conditionally register the pesticide product SUMITHION 8-E (EPA File Symbol 476-EROT) containing 76.8% of the active ingredient *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate. The application received from Stauffer Chemcial Co. proposes that the use pattern of this pesticide be changed from its present use as an insecticide for outdoor use to control easter spruce budworm to include indoor use on cockroaches. The application also proposes that the product be classified for general use.

Notice of approval or denial of this application to conditionally register SUMITHION 8-E will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 162), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the agency on the application.

Comments/Inquiries

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Mr. William Miller, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9458.

The comments must be received on or before November 16, 1979 and should bear a notation indicating the EPA File Symbol "476-EROT". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The lable furnished by Stauffer Chemical Co., as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 3(c)(4), FIFRA and 40 CFR Part 162.)

Dated: October 11,1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-32024 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS-51005; FRL 1338-8]

Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-3936.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date (44 FR 28559). The section 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided that the section 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer, when possible.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity, EPA will publish a generic name if the submitter provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice

of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extention is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under section 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

Authority: Section 5 of the Toxic Substance Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: October 10, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ–1079–0030

Close of Review Period: December 30, 1979.

Manufacturer's Identity: Bonewitz Chemical Services, Inc., 1731 N. Roosevelt Avenue, Burlington, Iowa 52601.

New Chemical Substance: The specific chemical identity of the substance for this PMN is magnesium dodecylbenzene sulfonate salt.

Uses: The substance, which is a detergent solution, is intended to be used to make liquid laundry detergents or industrial cleaning compounds. The company estimates a maximum annual production of 20,000 pounds. It also estimates that a maximum of 20 workers may come in dermal contact with the salt solution during manufacture and processing.

Data Submitted: The substance is defined as a magnesium dodecylbenzene sulfonate salt manufacturered in a water solution from dodecylbenzene sulfonic acid and magnesium oxide. The company claims that the exact chemical and physical properties are unknown, but submits that in most respects they should be similar to those of the sodium salt. The company also claims that the health and environmental effects would be very similar to those produced by the sodium salt.

The report on which data are based and other non-confidential information concerning this notice are available in the public record in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room E–447, 401 M Street, S.W., Washington, D.C. 20460).

[FR Doc. 79-32025 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS 51006; FRL 1340–7]

Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register.** This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS–793), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATON CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS–794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426–3936.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date ((44 FR 28559). The Section 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under Section 5(d)(2) EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under Section 5(b). In addition, EPA has decided that the section 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer, when possible.

Publication of the Section 5(d)(2) notice is subject to Section 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemcial identity, EPA will publish a generic name if the submitter provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (Section 5(a)(1)). The Section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under Section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under Section 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in

effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

Statutory Authority: Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: October 10, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ–1079–0035(S)

Close of Review Period: January 1, 1980.

Manufacturer's Identity: Schenectady Chemicals Inc., 9th and Congress Streets, Schenectady, New York 12301.

New Chemical Substance: The chemical identity of the substance for this PMN is 2-*tert*-butyl-4-*sec*-butylphenol.

Uses: The submitter intends to manufacture the compound for a commercial purpose, with a small amount to be used solely for research and development. The specific use of the substance and the amounts to be produced are claimed as confidential. Byproducts resulting from the manufacture of the substance are small amounts of 2-*tert*-butyl-4-*sec*-butylphenol, which will be incorporated into the final product and small amounts of tri-butylphenol, which will be disposed of by incineration. The company estimates that worker exposure will be limited to no more than 10 individuals exposed for no longer than 6 hours per day.

Data Submitted: The company indicated that no test data are available and that the health and environmental effects are not known or reasonably ascertainable.

The report on which data are based and other non-confidential information concerning this notice is available in the public record in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room E–447, 401 M Street, S.W., Washington, D.C. 20460).

[FR Doc. 79-32011 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS 53006; FRL 1340-4]

Toxic Substances; Premanufacture Notices Status Report for September 1979

AGENCY: Environmental Protection Agency (EPA or the Agency).

ACTION: Monthly Summary of Premanufacture Notices.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for September 1979.

DATE: Any person who wishes to file written comments on a specific chemical substance should submit those comments no later than 30 days before the expiration of the applicable notice review period.

ADDRESS: Written comments should bear the PMN number of the particular substance and should be addressed to the Document Control Officer (TS–793), Office of Toxic Substances, EPA, 401 M St., SW, Washington, DC 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E–447 at the address above.

FOR FURTHER INFORMATION CONTACT: Joyce Hagen, Premanufacturing Review Division (TS–794), Office of Toxic Substances, EPA, Washington, DC 20460, 202/426–3880.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA at least 90 days before he begins manufacture or import. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the inventory on June 1, 1979 (44 FR 28558, May 15, 1979). The section 5 requirements are effective for all new chemical substances manufactured or imported for a commercial purpose after July 1, 1979. Once EPA receives a PMN, the Agency normally has 90 days to review it. However, under section 5(c) of TSCA, the Agency may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that such an extension is necessary, the Agency publishes the reasons for the extension in the **Federal Register.**

The monthly status report required under section 5(d)(3) will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the beginning of the month; (c) PMN's for which the notice review period has ended since the last monthly summary; and (d) chemical substances that EPA has added to the inventory since the last monthly summary.

Statutory Authority: Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: October 10, 1979.

Marilyn C. Bracken,

Deputy Assistant Administrator for Program Integration and Information.

Premanufacture Notices; Status Report for September 1979

PMN No.	Identity/generic name	FR citation	Expiration date
	I. Premanufacture Notices Received During the Month		
5AHQ–0979–0016	*n*-Methanesulfonyl-p-toluene sulfonamide	44 FR 54118 (9/18/79)	Dec. 4, 1979
5AHQ–0979–0022	Postassium salt of polyfunctional aliphatic acid oligomer.	44 FR 55416 (9/26/79)	Dec. 17, 1979
5AHQ–0979–0023	Ammonium salt of polyfunctional aliphatic acid oligomer.	do	Do.
5AHQ–0979–0011(A)	Poly(vinyl acetate, acrylic acid, butylacrylate dioctyl maleate, 2 ethylhexyl acrylate).	In preparation	Dec. 23, 1979
5AHQ–0979–0024	2,2'-methylenebis (4-secbutyl-6-tert-butyl-phenol).	do	Dec. 25, 1979
5AHQ–0979–0025	2,2'-ethylidenebis (4-secbutyl-6-tert-butyl-phenol).	do	Do.
	II. Premanufacture Notices Received Previously and Still Under Review at the Beginning of the Month		
5AHQ–0779–0004	Amine salts of dicarboxylic acids	44 FR 44931 (7/31/79)	Oct. 17, 1979
	III. Premanufacture Notices for Which the Notice Review Period Has Ended Since the Last Monthly Summary		
5AHQ0479–0002–1	Isobutyric acid carbomonocyclic ester	44 FR 23310 (4/19/79)	Sept. 2, 1979 [1]
5AHQ0479–0002–2	Propiophenone, ring substitute-2-methyl	do	Do.
5AHQ0479–0002–3	Butyronitrile, 2-(substituted phenyl)-3-methyl	do	Do.
5AHQ0479–0002–4	Benzyl alcohol, ring substituted-alpha-isopropyl.	do	Do.
	IV. Chemical Substances that EPA has Added to the Inventory Since the Last Monthly Summary: None.		

[1] Per section 5(c), TSCA extension of 60 days.

[FR Doc. 79-32014 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[PP 6G1807/T219; FRL 1340-6]

Establishment of Temporary Tolerances for Pesticide Thidiazuron

Nor-Am Agricultural Products, Inc., 1275 Lake Ave. Woodstock, IL 60098, submitted a pesticide petition (PP6G1807) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for residues of the herbicide thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline-containing metabolites in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm), milk at 0.05 ppm, eggs at 0.1 ppm, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm. [A related document establishing a feed additive regulation for residues of thidiazuron in or on cottonseed hulls appears elsewhere in today's **Federal Register**.] These temporary tolerances will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (2139-EUP-23) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Agricultural Products, Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire July 1, 1980. Residues not in excess of these temporary tolerances remaining in or on cottonseed after expiration of these tolerances will not be considered actionable if the herbicide is legally applied during the term of, and in accordance with provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquires concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/755-1397).

Dated: October 10, 1979.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346(j)].)

[FR Doc. 79-32012 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1341-4]

Advisory Opinion Concerning Application of Cotton Defoliants in Arizona

Purpose and Scope of This Notice

The United States Environmental Protection Agency (EPA) recently held three days of public hearings in Phoenix, Arizona to receive information concerning, among other things, the application of pesticides to agricultural lands near or adjoining residential areas. The hearing was, in part, prompted by complaints by residents of Scottsdale, Arizona that pesticides being used on agricultural lands along Pima Road in that community were causing offensive odors as well as adverse human health and environmental effects. Testimony presented at the hearing based on a series of pesticide use observations conducted by EPA personnel in Arizona in August, 1979 indicated that even under ideal conditions pesticides drifted into residential areas and school grounds adjoining agricultural lands. In addition, EPA is currently conducting a human and environmental monitoring program in the Scottsdale and Yuma areas of Arizona. This monitoring program should yield valuable data concerning the question of whether or not pesticides being applied to agricultural lands result in human exposure in adjacent residential areas, and help point the way for future action.

However, this fall defoliants and desiccants will be applied to cotton crops throughout Arizona in order to prepare for mechanical picking of the crop. Some spraying has already begun. It is EPA's position that while awaiting the results of the ongoing monitoring study and for studies assessing the possible effects of human exposure to pesticide drift immediate steps can be taken to ensure that drift from applications of harvest aids into adjoining residential areas is minimized.

Depending on the circumstances, the drift of cotton defoliants to nontarget areas can constitute use of a pesticide in a manner "inconsistent with its labeling", which may result in an enforcement action against the applicator under section 12 and 14 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C.A. §§ 136j and 136l (Supp. 1979). However, after the fact imposition of civil penalties or other sanctions for violations of label statements pertaining to pesticide drift which do not provide guidelines for preventing drift into nontarget areas is, at best, an awkward and inadequate means of reducing such drift. Accordingly, EPA has developed a series of recommended application practices to be followed when applying defoliants and desiccants in Arizona to cotton fields located next to or near sensitive areas as defined in this Notice. It is our opinion that if these practices are properly followed drift into nontarget areas will be minimized.

Therefore, if an applicator follows the specific application practices outlined in this Notice, EPA will not prosecute such an applicator for violating the misuse provisions of FIFRA if small amounts of measurable drift away from the target site occurs. On the other hand, an applicator who chooses not to follow the practices outlined in this Notice may be subject to prosecution if his application results in pesticide drift to nontarget areas. EPA intends to monitor the application of these pesticides in Arizona to determine whether applicators are following the recommended application practices and whether pesticide drift is occurring. It should be noted that applicators are not exempted by this Notice from compliance with all other label provisions not covered by the application practices in this Notice. It should also be noted that this Notice only covers applications made through February 1980. In the meantime, EPA is considering what additional Agency action would be appropriate to minimize drift of cotton defoliants as well as other pesticides into residential areas.

The application practices outlined in this Notice (devised after consultation with experts in application technology and cotton culture) were developed with the expectation tht they would not make the use of any currently registered desiccants and defoliants so impractical as to constitute a de facto "ban". It is

also our opinion that the use of the application techniques and procedures outlined in this Notice employing widely available and inexpensive application equipment is reasonable and does not present any substantial countervailing costs or risks. At the same time, while it is EPA's view that if the recommended practices are followed pesticide drift into residential areas will be minimized, there is no absolute assurance that the resulting reduction in human exposure will be sufficient to eliminate altogether symptoms which may be associated with the spraying of cotton.

Application Practices

The Agency has developed certain application practices which should mitigate spray drift. These practices address such areas as wind direction and velocity, distance restrictions (buffer zones), aircraft type, aircraft speed, nozzle size, nozzle pressure, nozzle angle, and dilution factors. Attached is a chart outlining the recommended application practices discussed in this Notice. A particular concern is to minimize spray drift into sensitive areas, which for the purposes of this Notice means any areas where people are actually residing, areas in which substantial commercial activities are conducted (e.g., shopping centers), any area where a school is in session or will be in session within 24 hours, public parks and highways.

The Agency has determined that for purposes of developing these application practices, cotton defoliants used in the State of Arizona should be separated into two groups. Defoliants with particular irritation characteristics are placed in Group 1; all other defoliants used on cotton are placed in Group 2. Other factors such as human and animal toxicity have been taken into consideration in making these groupings. A review of cotton defoliants used in Arizona, using the above factors, resulted in the following groupings:

Group 1

Def
Folex
Paraquat

Group 2

Cacodylic Acid, Sodium Cacodylate
Endothall
Sodium Chlorate, Sodium Chlorate Borate
Arsenic Acid

A. Aerial Application

1. *General Considerations.* Certain specified application practices apply to the aerial application of cotton defoliants regardless of the group within which they have been placed. For all aerial application of cotton defoliants, there must be an air movement of not less than 2 miles per hour nor more than 10 miles per hour *away from* any sensitive areas. If the wind direction changes during the application, the application must be halted. In all applications, because of the large droplet size produced, applicators should be aware that if an insufficient volume of diluent is used they might not obtain adequate coverage or achieve efficacious defoliation. A nozzle pressure not to exceed forty (40) pounds per square inch (gauge) must be used.

For fixed wing aerial applications, nozzles must have not less than a one-sixteenth inch nor larger than a one-quarter inch orifice and they must produce a jet or cone type dispersion pattern. Jet and cone nozzles may be fitted with a No. 46 (or larger) WHIRL PLATE WHICH PRODUCES A CONE TYPE DISPERSION PATTERN. Fan nozzles are not recommended unless they are capable of producing a droplet of comparable size. Nozzles must be directed back with the airstream. Aircraft speed must not exceed 130 miles per hour.

For rotary wing aerial application, cone or jet nozzles must have not less than a one-sixteenth inch nor larger than a one-quarter inch orifice and may be fitted with a No. 46 (or larger) whirl plate capable of producing a cone dispersion pattern. Nozzles must be directed back with the airstream where application speeds exceed sixty (60) miles per hour. No restriction on nozzle angle is placed on rotary wing aircraft at application speeds of less than sixty (60) miles her hour. Other nozzles may be used but they must produce a droplet comparable in size to the droplets produced by the previously mentioned equipment. Drift control agents may be used at the applicator's discretion.

2. *Group 1.* Defoliants in Group 1 (Def. Folex, Paraquat) must not be aerially applied closer than one-quarter mile (440 yards) from a sensitive area.

3. *Group 2.* Defoliants in Group 2 (Cacodylic Acid, Sodium Cacodylate, Endothall, Sodium Chlorate, Sodium Chlorate Borate, Arsenic Acid) must not be aerially applied closer than one hundred (100) feet from a sensitive area.

B. Other Application Methods

1. *Air Carrier Applications.* For all air carrier applications (mist blowers) there must be an air movement of not less than 2 miles per hour nor more than 10 miles per hour *away from* any sensitive area. If the wind direction changes during the application, the application must be halted. In all applications, applicators should be aware that if an insufficient volume of diluent is used they might not obtain adequate coverage or achieve efficacious defoliation. A nozzle pressure not to exceed forty (40) pounds per square inch (guage) must be used. Other nozzle types such as fan, cone, or spinning screen may be used but they must produce a droplet comparable to the droplets produced by the previously mentioned aerial equipment (1/16" to 1/4" orifice). A No. 46 (or larger) whirl plate may be used.

a. Group 1 defoliants must not be applied by air carrier applicators closer than one quarter mile (440 yards) from a sensitive area.

b. Group 2 defoliants must not be applied by air carrier applicators closer than one hundred (100) feet from a sensitive area.

2. *Hydraulic Ground Applications.* Air movement must be away from sensitive areas but wind speed is not specified. In all applications, applicators should be aware that if an insufficient volume is used they might not obtain adequate coverage or achieve efficacious defoliation. Nozzles of either fan or cone type may be used. Such nozzles must be of a type which would permit no less than 0.2 gallons per minute flow rate. This includes, for example, fan nozzles such as the 6502, 7302 or 8002, and cone nozzles such as the D3–25 and TX 12. The 8002 nozzle is recommended. Nozzle pressure should not exceed 40 pounds per square inch (guage) pressure.

a. Group 1 defoliants must not be applied by Hydraulic Ground applicators closer than one quarter mile (440 yards) from a sensitive area.

b. Group 2 defoliants have no distance restrictions (buffer zones) other than any recommended by product labeling.

Authority

This advisory opinion governing the use of certain cotton defoliants and desiccants in Arizona through February, 1980 is issued pursuant to the authority granted to the Administrator by section 2(ee) of FIFRA, 7 U.S.C.A. 136 (ee) (Supp. 1979). Section 12 (a)(2)(G) of FIFRA makes it unlawful for any person "to use any registered pesticide in a manner inconsistent with its labeling". Section 2(ee) defines this terminology as prohibiting the use of a registered pesticide "in a manner not permitted by the labeling". However, section 2(ee) also provides that this prohibition does not apply with respect to certain practices specified in that section nor with respect to "any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this Act."

This Notice is effective through February 29, 1980.

Dated: October 12, 1979.

Steven Jellinek,

Assistant Administrator for Toxic Substances.

BILLING CODE 6560-01-M

	WIND SPEED AND DIRECTION	NOZZLE SIZE AND ANGLE	NOZZLE PRESSURE	AIRCRAFT SPEED
AERIAL--FIXED WING	Wind speed must not be less than 2 MPH nor greater than 10 MPH. Wind direction must ALWAYS be away from sensitive areas. Stop application if wind direction changes toward sensitive areas.	Jet and Cone nozzles must have a 1/16" to 1/4" orifice and may be fitted with a #46 or larger whirl plate capable of producing a cone dispersion pattern. Fan nozzles are not recommended unless they are capable of producing a droplet of comparable size. Nozzles must be directed back with the airstream.	Not exceeding 40 PSI(gauge)	130 MPH or less
AERIAL--ROTARY WING	Same as aerial-fixed wing	Jet and Cone nozzles must have a 1/16" to 1/4" orifice and may be fitted with a #46 or larger whirl plate capable of producing a cone dispersion pattern. Fan nozzles are not recommended unless they are capable of producing a droplet of comparable size. If aircraft speed is more than 60 MPH, nozzles must be directed back with the airstream. If aircraft speed is 60 MPH or less there is no restriction on nozzle angle.	Not exceeding 40 PSI(gauge)	130 MPH or less
GROUND--AIR CARRIER SYSTEM	Same as aerial-fixed wing	Same as aerial-fixed wing	Not exceeding 40 PSI(gauge)	Not applicable
GROUND--HYDRAULIC SYSTEM	No wind speed specified. Wind direction must be away from sensitive areas.	Nozzle size and pressure must deliver 0.2 gal./minute or more.	Not exceeding 40 PSI(gauge)	Not applicable

NOTE: Distance restrictions (buffer zones) must be observed as follows:

Group 1 pesticides (DEF, FOLEX, PARAQUAT)--One-quarter (1/4) mile from sensitive areas with all types of application.

Group 2 pesticides (ARSENIC ACID, CACODYLIC ACID, SODIUM CACODYLATE, SODIUM CHLORATE, SODIUM CHLORATE BORATE, ENDOTHALL)--One hundred (100) feet from sensitive areas for all aerial application and ground air carrier systems. No restrictions other than that found on product labeling for ground hydraulic systems.

[FR Doc. 79-32160 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-C

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-566; CC Docket No. 78-242]

Inquiry Into Alleged Improper Activities by Southern Bell Telephone and Telegraph Co. and Southwestern Bell Telephone Co.

Order

Adopted: September 20, 1979.
Released: October 1, 1979.

By the Commission: Commissioner Quello concurring in part and dissenting in part; Commissioner Jones concurring and issuing a Statement.

1. By Order FCC 78-567, released August 7, 1978, the Commission instituted an inquiry under Section 403 of the Communications Act to determine whether Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, or other Bell System operating companies have violated, or continue to violate, Sections 201, 217, 219, 220, 308 and 605 of the Act as well as Part 31, § 43.21 and § 43.31 of our rules. See 69 FCC 2d 1234 (1978), *recon. denied*, 70 FCC 2d 705 (1979). The allegations before us, which involved only Southern Bell and Southwestern Bell, included, among other things, abuses of political and charitable contributions, improper use of corporate funds and facilities, and rate and expense voucher data falsifications.

2. In view of the sensitivity of these matters, the Commission further ruled that public interest considerations required closing investigatory sessions to the public. Additionally, we decided that similar considerations warranted our requiring the record to be kept temporarily non-public until we had an opportunity to review it fully.

3. The investigatory record in this proceeding is now complete, and has been certified to this Commission by the Presiding Judge. Moreover, the Common Carrier Bureau, as required by paragraph 10 of our instituting Order, *supra*, has reported their findings and recommendations to us.

4. Among other things, the Bureau recommends that we release their report and the certified record for comment by the public and the Bell System.[1] We believe this course of action to be sound, since it would afford both the "subjects" of the investigation as well as other interested persons the opportunity to make their views known on the numerous important issues raised by this complex proceeding. To this end, moreover, we have also determined to release simultaneously a public notice advising as to the location of the certified record and the Bureau's report and recommendation. Upon receipt and analysis of the responsive comments, we shall decide, upon the record as a whole, what future action is appropriate in this and related matters.

5. Accordingly, it is ordered, on the Commission's own motion, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act of 1934, as amended, that all interested persons may file comments on the report and recommendations of the Bureau in this proceeding, as well as the underlying record, on or before November 15, 1979. Reply comments, including those of the Common Carrier Bureau, shall be filed on or before November 30, 1979.

6. It is further ordered, that the Chief, Common Carrier Bureau, is delegated authority to modify dates and procedures, if necessary.

7. It is further ordered, that the Secretary shall cause this Order as well as a Public Notice setting forth the location of the Bureau's Report to the Commission and the certified record to be published in the **Federal Register.** (See Public Notice, FCC 79-567, released October 1, 1979, and published in the **Federal Register**, on October 9, 1979, at 44 FR 57992)

Federal Communications Commission[2]

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Anne P. Jones

In Re: Investigation of Southern and Southwestern Bell Telephone Companies, CC Docket No. 78-242

I regret the necessity for republishing information which already has been adequately disclosed and has caused pain to many individuals. However, reluctantly, I concur that disclosure is required.

[FR Doc. 79-31989 Filed 10-16-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Requests to withhold certain portions of the record from public disclosure are currently before the Chief, Common Carrier Bureau. These requests for confidentiality will be ruled upon pursuant to § 0.459(d) of the Commission's rules.

[2] See attached Concurring Statement of Commissioner Anne P. Jones.

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, N.W., 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 November 6, 1979. 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-3852-A

Filing Party: Wallace Aiken, Esq., Aiken, St. Louis & Siljeg, 1215 Norton Building, Seattle, Washington 98104.

Summary: Agreement No. T-3852-A, between the City of Kodiak, Alaska (City) and Alaska Terminal and Stevedoring, Inc. (AT&S), provides for the 5-year lease by the City to AT&S of certain terminal facilities at Kodiak for non-preferential use in performing a full range of stevedoring and various other terminal services to any and all vessels calling at the facility, excluding those customarily serviced and controlled by Sea-Land Service, Inc. AT&S will pay monthly rental charge to City in a sum equivalent to the rental or use charge set forth in the current tariff of the Port of Kodiak applicable to such equipment.

Agreement No. T-3867

Filing Party: Betty I. Crofoot, House Counsel, Port of Portland, Box 3529, Portland, Oregon 97208.

Summary: Agreement No. T-3867, between the Port of Portland and The Japanese Six Lines, (Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui OSK Lines, Ltd., Nippon Yusen Kaisha, Showa Line, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd.) provides for reductions to the Port's tariff wharfage rates on container cargoes in excess of 368,000 short tons annually—such reductions to be calculated by percentage increments based on increased volume.

Agreement No. 9548-18.

Filing party: Stanley O. Sher, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street N.W., Washington, D.C. 20006.

Summary: Agreement No. 9548-18, amends the basic agreement of the North Atlantic Mediterranean Freight Conference by adding

new Articles 13.3(c), 13.4(c) and 13.5(b) for the purpose of providing substituted service by land, at the member's expense, between or to discharge ports within the scope of the Conference Agreement. Article 13.3(c) concerns cargo transported to ports within the scope of authority of the French Rate Committee and Article 13.5(b) concerns cargo transported to ports within the scope of authority of the Section I Rate Committee; and in each instance substituted service shall only be permitted, amended or cancelled by the unanimous vote of all members of those respective Committees. Article 13.4(c) provides for substituted service by land between or to ports of discharge within the scope of authority of the Italian Rate Committee and shall only be permitted to the ports of Genoa, Leghorn or Naples from the ports of Genoa, Leghorn or Naples unless expanded, amended or cancelled by a unanimous-less-one vote of all members of the Italian Rate Committee. By Order of the Federal Maritime Commission.

Dated: October 11, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-31937 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Perto-Lewis Corporation 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 assets of Clark Oil and Refining 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 both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 10, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by 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 consumation of such plants. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-32039 Filed 10-16-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of November 1979.

Alcohol Abuse Prevention Review Committee

November 1-2, 9:00 a.m., Sheraton Hotel, Fiesta East Room, 8127 Colesville Road, Silver Spring, Maryland 20910.
Open: November 1, 9:00 a.m.-10:30 a.m.
Closed: Otherwise.
Contact Robert E. Davis, Room 14-C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to prevention activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9:00-10:30 a.m., November 1, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Basic Sociocultural Research Review Committee

November 1-3, 9:00 a.m., Wellington Hotel, 2505 Wisconsin Avenue, N.W., Washington, D.C. 20007.
Open: November 1, 9:00-9:30 a.m.
Closed: Otherwise.
Contact Marilyn Anderson, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-3936.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-9:30 a.m., November 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Treatment Development and Assessment Research Review Committee

November 2-3, 9:00 a.m., Shoreham Americana, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open: November 2, 9:00-10:00 a.m.
Closed: Otherwise.
Contact Mrs. Eileen Nugent, Room 10C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3367.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-10:00 a.m. November 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Mental Health Research Education Review Committee

November 15-17, 9:00 a.m., Sheraton Silver Spring, 8727 Colesville Road, Silver Spring, Maryland 20910.
Open: November 15, 9:00-10:00 a.m.
Closed: Otherwise.
Contact: Ms. Barbara Spelman, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research education for scientists concerned with mental health problems from a biological, psychological, or social science perspective, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-10:00 a.m., November 15, the meeting will be open for discussion of

administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Cognition, Emotion, and Personality Research Review Committee

November 16–17, 9:00 a.m., Riviera Room, Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007.
Open: November 16, 9:00–10:00 a.m.
Closed: Otherwise.
Contact: Shirley Maltz, Room 10C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., November 16 the meeting will be open for discussions of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee

November 19–21, 9:00 a.m., Conference Room 905, CHevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015.
Open: November 19, 9:00–9:30 a.m.
Closed: Otherwise.
Contact: Miriam Stein, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4347.
Purpose: The Committee is charged with the initial review of grant applications for Research Scientist Development Awards and Research Scientists Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–9:30 a.m. on November 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee

November 29, 30 and December 1, 1:00 p.m., Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open: November 29, 1:00–2:00 p.m.
Closed: Otherwise.
Contact: Mary D. Cope, Room 10C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4337.
Purpose: The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Council of the respective Institutes for final review.
Agenda: From 1:00–2:00 p.m., on November 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11–A–17, Parklawn Building, 5600 Fishers Land, Rockville, Maryland 20857, 301/443–3306. The NIMH Information Officer who will furnish summaries of the meetings and rosters of the committee members is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4536.

Dated: October 11, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79–31958 Filed 10–16–79; 8:45 am]
BILLING CODE 4110–88–M

Office of Education

[Notice–1]

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATE: November 2, 1979.

ADDRESS: Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C., The Map Room, Terrace Level.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, P.L. 90–576. The Council is directed to:

(A) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On November 2, 1979, the National Advisory Council on Vocational Education will meet in regular session from 9:00 A.M. to 5:00 P.M. in the Map Room of the Washington Hilton Hotel, Washington, D.C.

The following agenda will be included in this meeting:

Report of Council Chairperson
Report of Executive Director
Formation of Committees
Appointment of Committee Chairpersons
Election of a Vice Chairperson
Discussion of Council Work Plan and Committee Activities
Formation of Meeting Calendar for FY '80
General Council Business

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Vocational Education, located at 425

13th Street N.W., Suite 412, Washington, D.C. 20004. For further information call Virginia Solt: (202) 376–8873.

Signed at Washington, D.C. on October 11, 1979.

Raymond C. Parrott,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 79-31940 Filed 10-16-79; 8:45 am]

BILLING CODE 4110-02-M

Office of Education

Strengthening Developing Institutions Program; Closing Date for Transmittal of Applications for Fiscal Year 1980; Noncompeting Continuation Projects

Applications are invited from grantees who were awarded noncompeting continuation projects in fiscal year 1979 for project periods extending beyond one full year of operation under the Strengthening Developing Institutions Program. These noncompeting projects were awarded in fiscal year 1979 only to two-year public and private developing institutions.

Authority for this program is contained in Sections 301–306 of Title III Higher Education Act of 1965, as amended.

(20 U.S.C. 1051–1056)

The purpose of the awards is to assist developing institutions of higher education to strengthen their academic quality, administrative capacity, and student services.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by December 10, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.454, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sundays, and Federal holidays.

Available funds: It is estimated that approximately $110,000,000 will be available for the Strengthening Developing Institutions Program in FY 1980. Of that amount approximately $12 million will be available for noncompeting continuation projects.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 23, 1979. They may be obtained by writing to the Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Strengthening Developing Institutions Program (45 CFR Part 169); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The Proposed Education Division General Administrative Regulations (EDGAR) were published in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through d).

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of Part 100a of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Edward J. Brantley, Director, Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–2418.

(20 U.S.C. 1051–1056)

(Catalog of Federal Domestic Assistance Number 13.454: Strengthening Developing Institutions Program)

Dated: October 12, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-31987 Filed 10-16-79; 8:45 am]

BILLING CODE 4110-02-M

Social Security Administration

Social Security for Your Future; Meetings—Correction

On September 18, 1979, national and regional symposia were announced in the **Federal Register** at 44 FR 54128. The telephone number to call in Region VI, Dallas, Texas, should be changed from "(214) 749–4339" to "(214) 729–4339".

Dated: October 9, 1979.

Edwin C. Simmons,

Director, Office of Regulations.

[FR Doc. 79-32002 Filed 10-16-79; 8:45 am]

BILLING CODE 4110-07-M

Office of Education

Strengthening Developing Institutions Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Strengthening Developing Institutions Program.

Authority for this program is contained in Sections 301–306 of Title III Higher Education Act of 1965, as amended.

(20 U.S.C. 1051–1056)

This program issues awards to two-year and four-year, public and private developing institutions of higher education.

The purpose of the awards is to assist developing institutions of higher education to strenghten their academic quality, administrative capacity, and student services.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by December 10, 1979.

Applications Delivered By Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.454, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Applications for new grants will be accepted from (1) institutions not currently in the program, and (2) Title III grantees (under either the Advanced Institutional Development Program or the Strengthening Developing Institutions Program) whose grants expire on or before December 31, 1980.

The conversion tables, which explain how the Commissioner assigns points to institutions applying for designation as developing are published as an appendix to this notice.

Available Funds: It is estimated that approximately $110,000,000 will be available for the Strengthening Developing Institutions Program in FY 1980.

Two-Year Colleges: No more than $26.4 million will be available for two-year institutions. Of this sum, approximately $14 million will be available for new projects. For the most part, awards will be for between $100,000 and $300,000, and will be for a one year period.

Four-Year Colleges: Approximately $83.6 million will be available for four-year institutions in FY 1980. Awards will be for between $200,000 and $500,000 annually, the majority of which will be for a one year period.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 23, 1979. They may be obtained by writing to the Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the application not exceed 100 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Note.—The Proposed Education Division General Administrative Regulations (EDGAR) were published in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through d).

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of Part 100a of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?);

Subpart F (What are the Administrative Responsbilities of a Grantee?); and) Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Dr. Edward J. Brantley, Director, Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2418.

(20 U.S.C. 1051-1056)

John Ellis,

Executive Deputy Commission for Educational Programs.

(Catalog of Federal Domestic Assistance Number 13.454; Strengthening Developing Institutions Program)

Appendix

Tables to be used in determining eligibility for participation in the strengthening developing institutions program.

Educational and General Expenditure Tables

Point Tables: To assist in determining Designation as a Developing Institution for FY 1980 (based upon 1977-1978 data).

Points for E. & G. Expenditures Per FTE Student

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
0	$6,145———	$10,777———	$21,093———	$14,185———
1	4,986- 6,144	7,821-10,776	15,638-21,092	13,110-14,184
2	4,483- 4,985	7,295- 7,820	12,335-15,637	10,648-13,109
3	4,398- 4,482	6,245- 7,294	9,875-12,334	9,544-10,647
4	4,016- 4,397	5,989- 6,244	9,044- 9,874	8,875- 9,543
5	3,812- 4,015	5,839- 5,988	8,052- 9,043	8,493- 8,874
6	3,730- 3,811	5,606- 5,838	7,971 -8,051	7,648- 8,492
7	3,605- 3,729	5,329- 5,605	7,376- 7,970	7,292- 7,647
8	3,479- 3,604	4,824- 5,328	7,253- 7,375	7,051- 7,291
9	3,438- 3,478	4,677- 4,823	7,122- 7,252	6,807- 7,050
10	3,363- 3,437	4,558- 4,676	6,905- 7,121	6,529- 6,806
11	3,313- 3,362	4,461- 4,557	6,691- 6,904	6,327- 6,528
12	3,261- 3,312	4,331- 4,460	6,171- 6,690	6,187- 6,326
13	3,224- 3,260	4,296- 4,330	6,072- 6,170	6,047- 6,186
14	3,164- 3,223	4,210- 4,295	6,023- 6,071	5,954- 6,046
15	3,137- 3,163	4,165- 4,209	5,893- 6,022	5,745- 5,953
16	3,104- 3,136	4,063- 4,164	5,725- 5,892	5,597- 5,744
17	3,073- 3,103	3,978- 4,062	5,615- 5,724	5,530- 5,596
18	3,057- 3,072	3,939- 3,977	5,380- 5,614	5,444- 5,529
19	3,033- 3,056	3,884- 3,938	5,309- 5,379	5,370- 5,443
20	2,988- 3,032	3,826- 3,883	5,199- 5,308	5,256- 5,369
21	2,948- 2,987	3,727- 3,835	5,103- 5,198	5,132- 5,255
22	2,900- 2,947	3,689- 3,726	5,053- 5,102	5,108- 5,131
23	2,841- 2,899	3,641- 3,688	4,997- 5,052	5,029- 5,107
24	2,829- 2,840	3,577- 3,640	4,905- 4,996	4,957- 5,028
25	2,787- 2,828	3,553- 3,576	4,811- 4,904	4,894- 4,956
26	2,761- 2,786	3,492- 3,552	4,712- 4,810	4,855- 4,893
27	2,723- 2,760	3,451- 3,491	4,647- 4,711	4,759- 4,854
28	2,714- 2,722	3,391- 3,450	4,524- 4,646	4,690- 4,758
29	2,670- 2,713	3,356- 3,390	4,496- 4,523	4,622- 4,689
30	2,663- 2,669	3,228- 3,355	4,446- 4,495	4,549- 4,621
31	2,656- 2,662	3,179- 3,227	4,388- 4,445	4,491- 4,548
32	2,630- 2,655	3,115- 3,178	4,334- 4,388	4,445- 4,490
33	2,614- 2,629	2,967- 3,114	4,276- 4,333	4,407- 4,444
34	2,600- 2,613	2,919- 2,966	4,226- 4,275	4,385- 4,406
35	2,574- 2,599	2,904- 2,918	4,088- 4,225	4,338- 4,384
36	2,557- 2,573	2,782- 2,903	4,047- 4,087	4,298- 4,337
37	2,526- 2,556	2,768- 2,781	4,024- 4,046	4,274- 4,297
38	2,513- 2,525	2,753- 2,767	3,957- 4,023	4,237- 4,273
39	2,494- 2,512	2,703- 2,752	3,891- 3,956	4,191- 4,236
40	2,476- 2,493	2,690- 2,702	3,846- 3,890	4,155- 4,190
41	2,451- 2,475	2,649- 2,689	3,808- 3,845	4,115- 4,154
42	2,429- 2,450	2,641- 2,648	3,775- 3,807	4,087- 4,114
43	2,414- 2,428	2,623- 2,640	3,751- 3,774	4,069- 4,086
44	2,394- 2,413	2,613- 2,622	3,747- 3,750	4,044- 4,068
45	2,373- 2,393	2,600- 2,612	3,701- 3,746	4,010- 4,043
46	2,362- 2,372	2,553- 2,599	3,679- 3,700	3,983- 4,009
47	2,352- 2,361	2,534- 2,552	3,626- 3,678	3,952- 3,982
48	2,337- 2,351	2,508- 2,533	3,617- 3,625	3,927- 3,951
49	2,320- 2,336	2,456- 2,507	3,588- 3,616	3,890- 3,926
50	2,302- 2,319	2,420- 2,455	3,536- 3,587	3,860- 3,889
51	2,296- 2,301	2,375- 2,419	3,518- 3,535	3,831- 3,859
52	2,283- 2,295	2,346- 2,374	3,495- 3,517	3,806- 3,830
53	2,247- 2,282	2,319- 2,345	3,455- 3,494	3,783- 3,805
54	2,233- 2,246	2,290- 2,318	3,440- 3,454	3,745- 3,782
55	2,217- 2,232	2,273- 2,289	3,372- 3,439	3,714- 3,745
56	2,188- 2,216	2,221- 2,272	3,341- 3,371	3,660- 3,713
57	2,170- 2,187	2,194- 2,220	3,284- 3,340	3,628- 3,659
58	2,163- 2,169	2,169- 2,193	3,257- 3,283	3,608- 3,627
59	2,150- 2,162	2,139- 2,168	3,200- 3,256	3,580- 3,607
60	2,130- 2,149	2,106- 2,138	3,154- 3,199	3,553- 3,579
61	2,123- 2,129	2,096- 2,105	3,142- 3,153	3,525- 3,552

Points for E. & G. Expenditures Per FTE Students—Continued

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
62	2,107- 2,122	2,074- 2,095	3,086- 3,141	3,473- 3,524
63	2,093- 2,106	2,023- 2,073	3,062- 3,085	3,439- 3,472
64	2,086- 2,092	2,003- 2,022	3,032- 3,061	3,402- 3,438
65	2,073- 2,085	1,988- 2,002	2,991- 3,031	3,375- 3,401
66	2,064- 2,072	1,975- 1,987	2,966- 2,990	3,361- 3,374
67	2,057- 2,063	1,952- 1,974	2,957- 2,965	3,318- 3,360
68	2,041- 2,056	1,936- 1,951	2,928- 2,956	3,290- 3,317
69	2,020- 2,040	1,882- 1,935	2,917- 2,927	3,271- 3,289
70	2,012- 2,019	1,863- 1,881	2,889- 2,916	3,242- 3,270
71	1,986- 2,011	1,834- 1,862	2,845- 2,888	3,183- 3,241
72	1,979- 1,985	1,831- 1,833	2,826- 2,844	3,152- 3,182
73	1,962- 1,978	1,810- 1,830	2,809- 2,827	3,131- 3,151
74	1,940- 1,961	1,798- 1,809	2,771- 2,808	3,088- 3,130
75	1,928- 1,939	1,770- 1,797	2,737- 2,770	3,060- 3,087
76	1,905- 1,927	1,763- 1,769	2,686- 2,736	3,039- 3,059
77	1,897- 1,904	1,731- 1,762	2,662- 2,685	3,000- 3,038
78	1,877- 1,896	1,725- 1,730	2,639- 2,661	2,973- 2,999
79	1,853- 1,876	1,665- 1,724	2,605- 2,638	2,930- 2,972
80	1,823- 1,852	1,660- 1,664	2,593- 2,604	2,861- 2,929
81	1,807- 1,822	1,628- 1,659	2,577- 2,592	2,839- 2,860
82	1,797- 1,806	1,601- 1,627	2,516- 2,576	2,822- 2,838
83	1,772- 1,796	1,450- 1,600	2,460- 2,515	2,778- 2,821
84	1,758- 1,771	1,389- 1,449	2,423- 2,459	2,718- 2,777
85	1,742- 1,757	1,363- 1,388	2,373- 2,422	2,682- 2,717
86	1,706- 1,741	1,332- 1,362	2,362- 2,372	2,646- 2,681
87	1,664- 1,705	1,325- 1,331	2,329- 2,361	2,580- 2,645
88	1,666- 1,693	1,317- 1,324	2,316- 2,328	2,521- 2,579
89	1,638- 1,665	1,303- 1,316	2,291- 2,315	2,451- 2,520
90	1,612- 1,637	1,275- 1,302	2,263- 2,290	2,375- 2,450
91	1,591- 1,611	1,205- 1,274	2,234- 2,262	2,328- 2,374
92	1,563- 1,590	1,132- 1,204	2,181- 2,233	2,210- 2,327
93	1,534- 1,562	1,014- 1,131	2,138- 2,180	2,166- 2,209
94	1,513- 1,533	867- 1,013	2,080- 2,137	2,074- 2,165
95	1,483- 1,512	800- 866	2,065- 2,079	1,951- 2,073
96	1,436- 1,482	740- 799	1,978- 2,064	1,808- 1,950
97	1,384- 1,435	721- 739	1,836- 1,977	1,685- 1,807
98	1,294- 1,383	695- 720	1,626- 1,835	1,487- 1,684
99	949- 1,293	632- 694	1,577- 1,625	1,062- 1,486
100	1- 948	1- 631	1- 1,576	1- 1,061

Basic Educational Opportunity Grant Tables

Point Tables: To assist in determining Designation as a Developing Institution for FY 1980 (based upon 1977–1978 data).

Points for BEOG Per FTE Undergraudate Student

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
0	$1-11	$0	$1-23	$1-14
2	12-28	1	24-54	15-41
4	29-30	1	55-60	42-5
6	31-6	2-6	61-74	46-53
8	37-40	7-21	75-80	54-5
10	41-5	22-31	81-2	56-9
12	46-8	32-42	83-6	60-5
14	49-50	43-6	87-9	66-7
16	51-4	47-53	90-2	68-70
18	55-7	54-5	93-4	71-5
20	58-60	56-60	95	76-7
22	61-2	61-6	96-9	78-80
24	63-4	67-8	100-1	81-2
26	65-6	69-70	102-3	83-5
28	67-9	71-2	104-5	86-7
30	70-1	73-9	106-8	88-92
32	72	80	109-11	93
34	73-5	81-3	112	94-7
36	76-7	84-7	113	98-102
38	78	88-90	114-5	103-4
40	79-81	91-3	116-7	105-7
42	82-4	94-5	118	108
44	85-6	96-100	119-20	109
46	87-9	101	121	110-2
48	90-2	102-4	122-3	113-7
50	93	105-7	124-5	118-20
52	94-6	108-9	126	121
54	97-8	110-1	127-8	122-5
56	99-100	112-4	129-30	126-7
58	101-2	115-9	131	128-30
60	103-4	120-1	132-3	131-4
62	105	122-4	134-6	135-8
64	106-8	125-7	137	139-40
66	109-10	128-9	138-40	141
68	111-2	130-2	141	142-5
70	113-4	133	142	146-7
72	115-7	134-7	143-4	148-9

Points for BEOG Per FTE Undergraudate Student—Continued

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
74	118-9	138-42	145	150-2
76	120-1	143	146	153
78	122-3	144-69	147	154-6
80	124	149-51	148	157-9
82	125-6	152	149	160-3
84	127-8	153-6	150-1	164
86	129-30	157-8	152	165-6
88	131-4	159-62	153	167-9
90	135	163-5	154-6	170-2
92	136-7	166-7	157	173-4
94	138	168-70	158-9	175-9
96	139-40	171-2	160-2	180-1
98	141-2	173-7	163	182-5
100	143-4	178-82	164	186-8
102	145-6	183-4	165	189
104	147-8	185-7	166-7	190-2
106	149-51	188-95	168	193-5
108	152-4	196	169	196-7
110	155-6	197-200	170-3	198-202
112	157-8	201-3	174-7	203-4
114	159-60	204	178-9	205-9
116	161-3	205-6	180	210-1
118	164	207-10	181-4	212-5
120	165-7	211-13	185-6	216-8
122	168-71	214	187-9	219-23
124	172	215-21	190	224-5
126	173-4	222-5	191-2	226-30
128	175-7	226	193	231-2
130	178-81	227-31	194	233-6
132	182-3	232-4	195-200	237-41
134	184-5	235-6	201-4	242-3
136	186-9	237-45	205-6	244-7
138	190-1	245-51	207-10	248-9
140	192-5	252-5	211-4	250-6
142	196-7	256-60	215-21	257-60
144	198-201	261-4	222-4	261-6
146	202-4	265-6	225-9	267-73
148	205-6	267-70	230-4	274-8
150	207-8	271-80	235-7	279-83
152	209-12	281-5	238-9	284-90
154	213-9	286-7	240-2	291-300
156	220-2	288-98	243-6	301-4
158	223-6	299-303	247-51	305-12
160	227-31	304-21	252-64	313-23
162	232-7	322-34	265-76	324-32
164	238-40	335-42	277-94	333-47
166	241-7	343-53	295-300	348-55
168	248-52	354-76	301-21	356-61
170	253-8	377-87	322-34	362-88
172	259-62	388-403	335-43	389-99
174	263-71	404-32	344-61	400-26
176	272-9	433-61	362-73	427-36
178	280-91	462-74	374-93	437-69
180	292-302	475-506	394-425	470-86
182	303-10	507-48	426-43	487-512
184	311-20	549-55	444-88	513-42
186	321-35	556-83	489-603	543-622
188	336-51	584-625	604-8	623-89
190	352-82	626-75	609-70	690-833
192	383-458	676-792	671-719	834-78
194	459-86	793-935	720-56	879-951
196	487-572	936-1,068	757-810	952-999
198	573-716	1,069-1,221	811-46	1,000-1,092
200	717- —	1,222- —	847- —	1,093- —

[FR Doc. 79-31988 Filed 10-17-79; 8:45 am]
BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. NI-1]

Intent To File a Draft Environmental Impact Statement/Environmental Impact Report

AGENCY: San Francisco Area Office, HUD.

ACTION: Notice.

SUMMARY: The San Francisco Area Office of the U.S. Department of Housing and Urban Development proposes to publish and distribute in the Winter of 1979, a Draft Areawide Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) on the prospective residential growth in the Solano County urban corridor growth area along the I-80 Freeway for the next five years. The focus of the EIS/EIR will be on anticipated residential growth; expected commercial and industrial growth may be noted, but as adjuncts residential development. This document will be developed pursuant to the CEQ regulations dated November 29, 1978, including a scoping process.

The proposed Draft EIS/EIR is expected to satisfy the requirements of the California Environmental quality Act (CEQA) as well as those of the National Environmental Protection Act (NEPA). The document is being prepared in cooperation with the planning departments of Solano County and the Cities of Vacaville, Fairfield, and Suisun City. This joint effort is intended to: (1) Resolve regional environmental problems on a uniform basis; (2) Eliminate duplication and accelerate the process of obtaining environmental review of proposed housing projects in the Solano County urban corridor growth area; and (3) Establish a single data base for the development of future environmental studies under NEPA and CEQA.

Solano County Central Growth Corridor Area-Wide EIS/EIR

(Including Cities of Fairfield, Vacaville, and Suisun City)

Boundary Description

North: Midway Road, from Gibson Canyon Road to I-80.

East: Lewis Road, from I-80 to Hay Road to Meridian Road (through Travis AB) to Creed Road to Denverton Road to Highway #12.

South: Highway #12 to first slough west of Grizzly Island Road. Around island surrounded by sloughs to Cordelia Road to railroad (S.P.T. Co.) to I-680 to 1 mile north of Goodyear overpass. Around Fairfield zone of influence to Green Valley Road.

West: Along Green Valley Road to foothills and generally along the foothills to Midway Road.

HUD has received several applications for subdivision approval under the 203b Mortgage Insurance Program covering nearly 3,000 Single Family residential units. One of these, Ridgeview, in the City of Vacaville, will be covered by this EIS/EIR. A Notice of Intent to file an EIS on this subdivision was published in the Vacaville Reporter on January 12 and January 14, 1979. This Notice now includes that EIS.

Another, Montabello Vista, in Suisun City, will also be covered by this EIS/EIR. A Notice of Intent to File an EIS on this subdivision was published in the Fairfield Daily Republic on July 23 and 24, 1978.

Possible alternatives will consider alternate locations for proposed residential growth based upon environmental considerations.

Due to the large area to be covered by this EIS/EIR and the complexity of regional and local environmental concerns to be addressed, HUD has determined that a written request would be more appropriate to determine the scope of issues to be addressed and for identifying the significant issues related

to the anticipated residential growth. This written request will be sent to all affected Federal, State and local agencies, major developers in the study area and other interested persons who normally would receive a copy of the Draft EIS. The document will request each recipient to identify any issues which should be analyzed in depth in the EIS and, in accordance with paragraph 1501.6 of 40 CFR Part 1500, solicit assistance in developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise. If necessary, a request will be made by HUD for staff support to enhance its interdisciplinary capability.

Any questions about the proposed action and the EIS/EIR should be directed to: Mr. George B. Adams, Project Manager, Environmental Staff, 9.3SS, San Francisco Area Office—HUD, One Embarcadero Center, Suite #1600, San Francisco, California 94111, Telephone: (415) 556–6642.

Henry Dishroom,

Area Manager, Department of Housing and Urban Development, San Francisco, California 94111.

[FR Doc. 79–31961 Filed 10–16–79; 8:45 am]

BILLING CODE 4210–01–M

New Community Development Corporation

[Docket No. N–79–953]

Jonathan New Community; Intent To Supplement Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Community Development Corporation, Washington, D.C., intends to issue a Supplement to the Final Environmental Impact Statement for the Jonathan New Community which is located approximately 25 miles southwest of Minneapolis, in Carver County, Minnesota.

The Supplement will evaluate the environmental impacts of the proposed action of selling HUD's interest in the Jonathan new community project rather than proceeding with the foreclosure action. The First National Bank of St. Paul has signed a letter of intent to acquire HUD's interest.

The new community project was originally planned to consist of 7,522 acres, about 15,309 dwelling units, and about 45,927 population after 20 years. Current development consists of about 900 residential units on about 200 acres, a village center and various recreation facilities. There are approximately 3,000 residents.

Copies of the Supplement will be available in the near future. The comment period for the Draft Supplement will be forty-five (45) calendar days after the date of publication of notice in the **Federal Register** that such Draft Supplement has been filed.

The final EIS for Jonathan was issued in April, 1978. Copies are available for review at the New Community Development Corporation, HUD, in Washington, D.C., and in Jonathan at the offices of the community association.

Comments concerning this Notice are invited from all affected and interested parties and should be received in writing as soon as possible, but not later than ten (10) calendar days after publication of this notice in the **Federal Register.**

Telephone inquiries about this Notice may be directed to Daryl C. Ray, Environmental Clearance Officer (alternate) (202) 755–5510.

Issued at Washington, D.C., October 9, 1979.

Bryant L. Young,

Deputy General Manager, New Community Development Corporation.

[FR Doc. 79–31960 Filed 10–16–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 38480, 38481, and 38482]

New Mexico; Applications

October 9, 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), Northwest Pipeline Corporation has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 5 W.,
Sec. 17, W½NW¼ and NW¼SW¼.
T. 31 N., R. 6 W.,
Sec. 35, NE¼NE¼ and SE¼SE¼.

These pipelines will convey natural gas across 0.720 of a mile of public lands in Rio Arriba County, 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.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–32003 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38488, 38491, and 38543]

New Mexico; Applications

October 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), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 7 W.,
Sec. 10, SE¼SE¼;
Sec. 11, NE¼NW¼ and SW¼SW¼.
T. 30 N., R. 10 W.,
Sec. 27, lot 11.

These pipelines will convey natural gas across 0.567 of a mile of public lands in San Juan County, 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.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–32004 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38545 and 38546]

New Mexico; Applications

October 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), Llano, Incorporated has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 24 S., R. 32 E.,
Sec. 29, N½SW¼, SE¼SW¼ and S½SE¼;
Sec. 30, S½NE¼ and NE¼SE¼.
T. 19 S., R. 33 E.,
Sec. 7, lots 3, 4 and SE¼SW¼;

Sec. 18, SW¼NE¼, E½NW¼, W½SE¼ and SE¼SE¼;
Sec. 19, E½NE¼;
Sec. 20, SW¼NW¼, W½SW¼ and SE¼SW¼;
Sec. 29, SW¼NE¼, E½NW¼ and NW¼SE¼.

These pipelines will convey natural gas across 4.526 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 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 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79-32005 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69205]

Wyoming; Application

October 5, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and relate facilities consisting of a 4'x6' meter building and dehydrator facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridan, Wyoming

T. 36 N., R. 93 W.,
Sec. 19, Lot 4.
T. 36 N., R. 94 W.,
Sec. 24, E½NE¼.

The proposed pipeline will extend from the Federal Fuller Well located in the NE¼ of Section 24, T. 36 N., R. 94 W., to a point of connection with Colorado Interstate Gas Company's existing pipeline located in Lot 4 of Section 19, T. 36 N., R. 93 W., all within Fremont County, Wyoming. The proposed 4'x6' meter building and dehydrator facilities will be located entirely within the proposed 50' right-of-way width at a point located in the NE¼ of Section 24, T. 36 N., R. 94 W., Fremont County, Wyoming.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32006 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-84-M

Utah; Announcement of Federal Regional Coal Team Briefing

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Announcement of Uinta-Southwestern Utah Federal Regional Coal Team Briefing.

DATE: 8:00 a.m. October 31, 1979.

ADDRESS: Briefing will be held in Room 1408, University Club Building, 136 East South Temple Street, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairman (702) 784-5451.

SUMMARY: The Bureau of Land Management is announcing a briefing of the Uinta-Southwestern Federal Regional Coal Team to conduct business pursuant to Departmental rules 43 CFR 3400.4, 44 FR 42612, July 19, 1979.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

October 11, 1979.

[FR Doc. 79-31967 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Cheyenne Mountain Zoological Park (PRT 2-4697), Box 158, Colorado Springs, Colorado 80901.

The applicant requests a permit to import and purchase in foreign commerce one (1) captive-bred male Sumatran tiger (*Panthera tigris sumatrae*) from the Royal Rotterdam Zoological & Botanical Garden, Rotterdam, Netherlands for enhancement of propagation.

Applicant: San Diego Zoological Garden (PRT 2-4748), P.O. Box 551, San Diego, California 92112.

The applicant requests a permit to import and purchase in foreign commerce one (1) captive-bred Bactrian camel (*Camelus bactrianus*) from the Parc Safari Africain, Quebec, Canada for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: October 3, 1979.

Fred L. Bolwah,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S Fish and Wildlife Service.

[FR Doc. 79-31938 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: National Zoological Park (PRT 2-4751), Washington, D.C. 20008.

The applicant requests a permit to import six (6) captive-bred Goeldi's marmosets (*Callimico goeldii*) from the Jersey Wildlife Preservation Trust, Channel Islands for enhancement of propagation.

Applicant: San Diego Zoological Garden (PRT 2-4768), P.O. Box 551, San Diego, California 92112.

The applicant requests a permit to import eight (8) captive-bred Cuvier's gazelles (*Gazella cuvieri*) and eight captive-bred Mhorr gazelles (*C. dama mhorr*) from the Parque de Rescate de la Fauna Sahariana, Spain for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interestered persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: October 10, 1979.

Donald G. Donohoe,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 79-31939 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

Geological Survey

Earthquake Studies Advisory Panel; Public Meeting

Pursuant to Public Law 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Earthquake Studies Advisory Panel will be held beginning at 8:30 a.m. (local time) on Thursday, November 1, 1979, and continuing through Friday, November 2, 1979. The Advisory Panel will meet in the Marine Biology Conference Room Scripps Institute of Oceanography at the University of California/San Diego, La Jolla, California 92093.

(1) *Purpose.* The Advisory Panel was appointed to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

(2) *Membership.* The Advisory Panel is chaired by Professor Nathan M. Newmark and is composed of persons drawn from the fields of geology, geophysics, engineering, rock mechanics, and socioeconomics, primarily from the academic community.

(3) *Agenda.* Review of the program activities for Fiscal Year 1980 and plans for Fiscal Year 1981.

For more detailed information about the meeting, please call Dr. Robert L. Wesson, Chief, Office of Earthquake Studies, Reston, Virginia 22092 (703) 860-6472.

Henry W. Coulter,

Acting Director, U.S. Geological Survey.

[FR Doc. 79-31778 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Availability of Assessment of Alternatives for a Development Concept Plan and Notice of Public Hearings Chesapeake and Ohio Canal National Historical Park

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an assessment of alternatives for a Development Concept Plan for the Great Falls, Maryland section of the C&O Canal National Historical Park. The section includes the area from Mile 12 (Anglers Inn vicinity) to Mile 16.5 (Swains Lock).

Public hearings on this planning effort will be held as follows:

November 13, 1979 (Tuesday) at 8 p.m., Saint Francis Hall, Saint Francis Episcopal Church, 10033 River Road, Potomac, Maryland.

December 1, 1979 (Saturday) at 10 p.m., Westmoreland Congregational Church, 1 Westmoreland Circle, Washington, D.C.

Written comments on this assessment are invited and will be received no later than January 4, 1980. Written comments should be addressed to the Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Copies of the assessment of alternatives are available from:

C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782 (phone: 301/432-2231 or 948-5641).

National Park Service, National Capital Region, 1100 Ohio Drive SW., Washington, D.C. (phone: 202/426-6738).

Dated: October 11, 1979.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 79-31959 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-60]

Certain Automatic Crankpin Grinders; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions

Recommendation of the Presiding Officer

In connection with the U.S. International Trade Commission's investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain automatic crankpin grinders in the United States, the presiding officer filed his recommended determination on September 26, 1979. The presiding officer determined—

That there is a violation of Section 337 of the Tariff Act of 1930, as amended, in the unauthorized importation into the United States, and the sale of certain automatic crankpin grinders by reason of the fact that these automatic crankpin grinders infringe United States Letters Patent 3,118,258 with the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated in the United States.

The presiding officer certified the evidentiary record to the Commission for its consideration. Interested persons may obtain copies of the presiding officer's recommendation (and all other public documents) by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Commission Hearing Scheduled

The Commission will hold a hearing beginning at 10:00 a.m., e.s.t., on October 29, 1979, in the Commission's Hearing Room (Room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral arguments on the presiding officer's recommendation that there is a violation of section 337 of the Tariff Act of 1930, as amended. Second, the Commission will hear oral presentations concerning appropriate relief, bonding, and the public-interest factors for consideration in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

Oral Argument Concerning the Presiding Officer's Recommendation

A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: Respondents, complainant, interested agencies, and Commission investigative staff.

Oral Presentations on Relief, Bonding, and the Public Interest

Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may

make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of automatic crankpin grinders into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of such automatic crankpin grinders. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.* If the Commission finds a violation of section 337 and orders some form of relief, such relief would not become final for a 60-period, during which the President would consider the Commission's report. During this period the automatic crankpin grinders would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.* If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of that relief upon the public. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Those persons making an oral presentation on any or all of the above topics will be limited to 15 minutes, with an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing. Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.d.t.) on October 24, 1979. The written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommendation and/or an oral presentation concerning relief, bonding, and the public interest. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the presiding officer's recommended determination, public-interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written Submissions to the Commission

The Commission requests that written submissions of two types be filed no later than the close of business on November 12, 1979.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

Additional Information

The original and 19 true copies of all briefs and written comments and any written request to participate must be filed with the Secretary to the Commission.

Any person desiring to discuss confidential information at the hearing shall request the Chairman to direct that a portion of the hearing be held *in camera.* Documents containing confidential information which has been previously submitted subject to the protective order in this investigation will be treated accordingly. Documents containing information which has not been previously submitted as confidential subject to the protective order will be treated as confidential only upon written request directed to the Secretary which includes a full statement of the reasons why the Commission should grant such treatment. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Notice of the Commission's investigation was published in the **Federal Register** of December 15, 1978 (43 FR 58642).

By order of the Commission.

Issued: October 11, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32008 Filed 10-16-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

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 Los Angeles, California on November 1–2, 1979.

FOR FURTHER INFORMATION CONTACT: Paul Rogers, Special Assistant to the Commissioner of Immigration and Naturalization Service, Room 7056, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 633–2648.

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 meeeting of the Federal Advisory Committee on Immigration and Naturalization. (All Sub-Committees will have work sessions on November 1, 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, November 2, 1979, at the Federal Building, located at 300 North Los Angeles Street, Room 8544, Los Angeles, California 90012.

Federal Advisory Committee Agenda

Subcommittee Meeting—November 1, 1979; 4:00 p.m. to 7:00 p.m.

FAC Meeting—November 2, 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 Western Regional Commissioner Edward F. O'Connor; 8:50 a.m.

Introduction of Los Angeles District Director, Joe D. Howerton
IV. Opening Remarks by Acting Commissioner, David Crosland; 9:30 a.m.
V. Review of Agenda Topics; 10:00 a.m.
VI. Reading of the Minutes; 10:15 a.m.

Break

VII. Staff Presentations:
A. Refugee and Parole, Jack Rebsamen, Director; 11:00 a.m.
B. Immigration Legislative Update, Paul Schmidt; 11:30 a.m.

Lunch

C. Tour of Los Angeles District Office, Joe Howerton; 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, U.S. Immigration and Naturalization Service, 425 Eye Street, NW., Room 7056, Washington, DC 20536.

Dated: October 12, 1979.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 79-31986 Filed 10-16-79; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Continuation of Work

With the enactment of Pub. L. 96-84, signed into law by the President on October 10, 1979, the work of the National Commission on Unemployment Compensation has been extended by one year. Interim reports may be issued by the Commission as deemed appropriate. The final report of the Commission, to the President and the Congress, is due not later than July 1, 1980, and the Commission will cease to exist 90 days after the date on which the report has been filed. The Commission will receive written comments, suggestions or reports on any aspects of the employment security program or on any of the items listed in Title IV of the Unemployment Compensation Amendments of 1976 which the Commission is authorized to consider, up until May 30, 1980.

Signed at Rosslyn, Virginia, this 12th day of October, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-31969 Filed 10-16-79; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Atmospheric Sciences

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.
Date: October 31, November 1 and 2, 1979.
Time: 9:00 a.m.-5:00 p.m.
Place: Rooms 642 and 628, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.
Type of Meeting:
Closed—October 31 (all day) and November 1 (9:00 a.m.-12:00 Noon).
Open—November 1 (1:00 p.m.-5:00 p.m.) and November 2 (all day).
Contact Person: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 634-1490.
Purpose of Committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area. Provides expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance and selection of awards.
Agenda:
October 31-9:00 a.m. to 5:00 p.m. and November 1-9:00 a.m. to 12 Noon (CLOSED) Rooms 642 and 628—Committee review of the Global Atmospheric Research Program and the Aeronomy Program, including examination of proposal jackets, reviewer comments and other privileged material.
November 1, 1979 (Open 1:00 p.m.-5:00 p.m.) Room 642—1:00 p.m.—Approval of Minutes of May 3-4, 1979 Meeting; 1:45 p.m.—Reports of Working Groups on Program Reviews; 2:45 p.m.—Discussion of NSF Circular 147; 3:45 p.m.—UCAR Initiatives and NCAR Cost Recovery Plans; 5:00 p.m.—Adjourn.
November 2, 1979 (Open 9:00 a.m.-5:00 p.m.) Room 642—9:00 a.m.—Division of Atmospheric Sciences (ATM) Reorganization; FY 1980 Appropriation and Allocation; FY 1981 Budget to Office of Management and Budget; ATM Long-Range Plans; ATM Staffing Plans. 10:45 a.m.—Structure and work of Atmospheric Sciences Advisory Committee (ASAC); Nominees for ASAC; Chairman for 1980 ASAC. 1:00 p.m.—Discussions. 5:00 p.m.—Adjourn.
Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

This meeting notice is late due to a miscalculation of time required to publish a notice of meeting.

M. Rebecca Winkler,

Committee Management Coordinator.

October 11, 1979.

[FR Doc. 79-31949 Filed 10-16-79; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21245; (70-6185)]

Arkansas Power & Light Co.; Proposal To Increase Borrowings To Finance Nuclear Fuel Procurement and Processing

October 10, 1979.

In the Matter of Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203.

Notice is hereby given that Arkansas Power & Light Company ("AP&L"), an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 22, 1978 in this matter (HCAR No. 20679) AP&L was authorized to consolidate the arrangements whereby it leases nuclear fuel, including facilities incident to its use ("Nuclear Fuel"), for Units No. 1 and 2 of Arkansas Nuclear One, located near

Russellville, Arkansas. In accordance with the terms of such order it entered into an amended and restated Fuel Lease ("Lease") with Southwest Fuel Company ("Fuel Company") pursuant to which the Fuel Company would make payments to suppliers, processors and manufacturers necessary to carry out the terms of AP&L's contracts for Nuclear Fuel for such Units, or AP&L would make such payments and be reimbursed by the Fuel Company. The maximum commitment of the Fuel Company to make payments for Nuclear Fuel was $99,000,000 at any one time outstanding. The Fuel Company financed such obligations under the Lease by entering into a $100,000,000 credit agreement ("Credit Agreement") with Bank of America National Trust and Savings Association ("Bank") and Southwest Contracts, Inc.

AP&L presently estimates that in view of the increased cost of uranium and related services, the maximum commitment of the Fuel Company under the present arrangements will not be sufficient to pay the cost of Nuclear Fuel for Arkansas Nuclear One. The Fuel Company, however, has advised AP&L that it is willing to amend the Credit Agreement to provide for a loan commitment by the Bank of $130,000,000 and thereby increase its maximum commitment to make payments for Nuclear Fuel to $129,000,000 at any one time outstanding. As required by the Lease, AP&L would approve any amendment of the Credit Agreement by the Fuel Company.

Except as indicated above, the terms and conditions of the Lease and related arrangements will be the same as those approved in the order of August 22, 1978.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction, except that the Nuclear Regulatory Commission has licensing and regulatory jurisdiction over the ownership possession, storage and handling of the Nuclear Fuel.

Notice is further given that any interested person may, not later than October 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended, or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31951 Filed 10-16-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. 21244; (70-6365)]

Eastern Utilities Associates; Proposed Issuance and Sale of Common Stock at Competitive Bidding by Holding Company, Issuance and Sale of Common Stock by a Subsidiary to Holding Company and Issuance and Sale of Common Stock by a Subsidiary to Another Subsidiary

October 10, 1979.

In the Matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107, Eastern Edison Company, 36 Main Street, Brockton, Massachusetts 02403; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and two of its electric utility subsidiaries, Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10 and 12 of the Act and Rules 42(b)(2), 43(a) and 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

EUA proposes to issue and sell at competitive bidding up to 600,000 shares of its authorized but unissued common stock, par value $5.00. EUA proposes to apply the net proceeds from such sale to the purchase, at their par value of $25 per share, of the maximum number (but not more than 400,000) of shares of Eastern Edison common stock so purchasable (the "Additional Eastern Edison Stock").

Eastern Edison proposes to increase its capital stock in an amount equal to the par value of the Additional Eastern Edison Stock, and to issue and sell the Additional Eastern Edison Stock, at par, to EUA. Eastern Edison proposes to use the proceeds from such sale to purchase, at their par value of $100 per share, the full number of shares of common stock of Montaup so purchasable (the "Additional Montaup Stock"), such number of shares (if not an integral multiple of 1,000) to be rounded to the next higher integral of 1,000 (which number so rounded will not exceed 100,000). To the extent that the net proceeds to Eastern Edison are less than the amount required for the purchase of the Additional Montaup Stock, the deficiency will be supplied from Eastern Edison's treasury cash. Eastern Edison proposes to pledge the Additional Montaup Stock to State Street Bank and Trust Company under Eastern Edison's Indenture of First Mortgage and Deed of Trust, dated as of September 1, 1948, as supplemented and modified, securing Eastern Edison's First Mortgage and Collateral Trust Bonds.

Montaup proposes to increase its capital stock in an amount equal to the par value of the additional Montaup Stock, and to issue and sell the Additional Montaup Stock, at par, to Eastern Edison. Montaup proposes to apply the proceeds from such sale to reduce its outstanding short-term debt to banks, which was approximately $25,750,000 at June 30, 1979, and is expected to be approximately $45,000,000 at the time of sale.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Department of Public Utilities of the Commonwealth of Massachusetts has jurisdiction over various aspects of the proposed transactions, that the Public Utilities Control Authority of the State of Connecticut will be asked to waive any jurisdiction it might have over the proposed transactions, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than November 2, 1979, request in writing

that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 31952 Filed 10-16-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16254/October 5, 1979; SR-MSE-79-18]

Midwest Stock Exchange, Inc.; Self-Regulatory Organization

Comments Requested by: November 2, 1979.

Relating to: Responses to the Recommendations of the Special Study of the Options Markets as promulgated by the Securities and Exchange Commission in Release No. 34-15575.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 26, 1979, the Midwest Stock Exchange, Incorporated ("MSE") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

The Commission has determined that it is necessary and appropriate to provide additional time for public comment on and Commission consideration of the proposed rule changes. Because the subject filing contains numerous rule proposals which, if approved, would affect significantly the operation of the standardized options markets, the Commission believes that additional time is necessary to enable commentators to address meaningfully the substance of the proposals and to enable the Commission to give the proposals the careful consideration they warrant before determining whether to approve the proposals or to initiate proceedings to determine whether they should be disapproved.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, hereby extends until 90 days from the date of publication of notice of filing of the proposed rule changes captioned above, the time period within which the Commission must either approve the proposed rule changes or institute proceedings to determine whether the proposed rule changes should be disapproved.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes [1]

The following is a summary of the rule changes proposed by MSE. The text of the proposed rule changes is attached as Exhibit A to this notice, brackets used for words to be deleted and italics used for words to be added.

Rule 3 of Article XLIII. A new Interpretation .01 has been added to the Rule which lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. Paragraph (b) of the Rule is proposed to be amended to require that customer background and financial information be retained by the member organization as provided in Rule 9.8. Paragraph (c) of the Rule is proposed to be amended to require that such information be furnished to each new options customer (that is a natural person) for his verification. Also, it is proposed that this information must be sent again to a customer whenever the firm is aware of any material change in the customer's financial situation.

Rule 11 of Article XLVIII. This Rule is proposed to be amended to require customer account statements to bear a legend asking customers to notify the firm of any changes in their financial situation.

Rule 4 of Article XLVIII. A new paragraph (c) of this Rule is proposed to be added to require that customer background and financial information be maintained by members at the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Also, it is proposed that monthly account statements for the most recent months and other records necessary to the proper supervision of accounts be maintained at, or easily accessible to, both offices. A new paragraph (b) is proposed to be added which would require member firms that do a public business to specifically identify a Compliance Registered Options Principal ("CROP") having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision of all of the firm's options activities would remain with the Senior Registered Options Principal ("SROP") although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions annually or having 10 or less options registered representatives.

Rule 5 of Article XLVIII. The Rule is proposed to be amended to prohibit a broker-dealer from recommending any opening transaction to a customer unless he has a reasonable basis for believing that the customer is able to evaluate the risks of the transaction and is financially able to bear them.

Rule 15 of Article XLVIII. This new Rule would require firms to maintain a central, firm-wide file containing specified information concerning all options-related complaints. Copies of such complaints would be required to be forwarded to the central location and maintained at the branch office that is the subject of the complaint.

Rule 16 of Article VII. The Rule is proposed to be amended to call for written notification to the MSE of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

Rule 7 of Article XII. The period of continued disciplinary jurisdiction over terminated members is proposed to be extended if an inquiry is commenced within one year following notice of termination, and the requirement that

[1] The Midwest Exchange informed the Commission by amendment three to file number SR-MSE-79-18, submitted on October 3, 1979, that its Board of Governors approved on September 21, 1979 the rule proposals which follow.

disciplinary proceedings themselves must commence within any stated time is proposed to be deleted.

Rule 4 of Article XIII. The Rule is proposed to be amended to require the approval by the CROP of all communications to customers and to further define the standards applicable to such communications. The proposed amendments would also exempt advertisements from certain of the approval requirements if such advertisements had been previously submitted to another self-regulatory organization having comparable standards regarding advertising. Interpretations .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers. Relevant costs and other assumptions used in computing annualized rates of return would also be required to be disclosed by Interpretation .03 under the Rule. This Interpretation would also contain other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Interpretation .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Complete work sheets would be required to be retained by member firms the same as all other written communications to customers. Interpretation .03 would also include performance reports within the definition of "sales literature", require that they be approved by the CROP and be retained by the firm, and establish standards for their content.

Rule 2 of Article L. The Rule is proposed to be amended to require members who utilize random allocation of exercise notices to use either an automated method that has been approved by a self-regulatory organization, or the manual method that has been uniformly specified by all of the self-regulatory organizations. FIFO methods of allocation would also be required to be approved by a self-regulatory organization. Members would be required to notify their customer of the method of allocation utilized and explain how it works. Also, it is proposed that the Rule be amended to require that records relating to exercise allocation be preserved for three years.

Rule 11 of Article XLVII. The Rule is proposed to be amended to require that Market-Makers inform the MSE of all accounts in which they trade stock or options, and also notify the MSE of all orders for and positions in underlying securities and related securities.

Rule 4 of Article XLVIII. This Rule is proposed to be amended to require every branch manager to be qualified as a Registered Options Principal ("ROP"), unless the branch office has not more than three Registered Representatives, and is otherwise under the supervision of a ROP.

Rule 6 of Article XLVIII. The Rule is proposed to be amended to require that customers over whose accounts members exercise investment discretion be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed Rule 4 of Article XIII. The proposed amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions.

II. Self-Regulatory Organization's Statement of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, MSE included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule change. Such statements are reproduced in sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes

The rule changes filed herewith represent responses to the recommendations of the Special Study of the Options Markets as promulgated by the Commision in Release No. 34–15575.

A discussion of the purpose of each of the rule changes included in this filing is presented below under the caption of the respective recommendation of the Options Study to which the rule change is responsive. To facilitate the Commission's review, the captions of the various responses to recommendations of the Options Study are keyed to the numbering system used in Release No. 34–15575.

The statutory basis for these rule changes, as stated in Release No. 34–15575, is that the implementation of the recommendations of the Options Study is "[c]onsistent with the scheme of self-regulation embodies in the Securities Exchange Act of 1934."

I.A.l.a, b, and c. Rule 3, Article XLVIII

These related recommendations call for the collection and recording of background and financial information concerning customers in order to support the approval of their accounts for options transactions and subsequent suitability determinations, and they also call for the verification by the customer of this information. In response, we propose to add a new Commentary .01 to Rule 3, governing the opening of accounts, that lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. We have not required that all member organizations adopt a uniform options customer information form, since we believe it appropriate to permit the firms to have some flexibility in this regard, so long as the minimum information required by Commentary .01 is included. However, we understand on the basis of discussions with representatives of the Securities Industry Association that the SIA expects to develop and make available contemporaneously with the effective date of this Commentary, a standard options customer information form that would satisfy the new requirements.

We also propose to add specific record keeping requirements applicable to options customer information by including in paragraph (b) of Rule 3 a cross-reference to the provisions of Rule 4 that state how options customer information should be maintained. (I.A.l.d. below).

Paragraph (c) to Rule 3 will require that every new options customer that is a natural person be sent for his verification the background and financial information reflected in his customer account information form within 15 days of the approval of his account for options transactions. In addition, this information must again be sent to the customer for verification whenever the firm is aware of any material change in the customer's financial situation. Customer account statements will contain a legend asking that customers notify the firm of any changes in their financial situation (see proposed change to Rule 12 of Article XLVIII).

I.A.l.d. Rule 4 Article XLVIII

In response to this recommendation concerning the maintenance of records of customer background and financial information, we propose to add to Rule 4 a requirement that background and financial information of customers approved for options transactions must be maintained both at the branch office

and at the principal supervisory office having jurisdiction over the branch office. In addition, Rule 4 will require that monthly account statements for the most recent six months be maintained at both offices and that other records necessary to the proper supervision of accounts be easily accessible to both offices. With these new record keeping requirements, not only the registered representative servicing a customer's account, but also the persons responsible for supervising the registered representative, will have easy access to all relevant information concerning the customer and his account.

I.A.l.e. Rule 5 of Article XLVIII

The purpose of the proposed amendment to Rule 5 is to make applicable to all recommended opening options transactions the more stringent suitability requirements (that the customer be able to evaluate the risks of the transaction and be financially able to bear them) that now apply only to recommendations for uncovered call writing or put writing. Under the amended suitability rule, a broker-dealer would be prohibited from recommending any opening options transaction to a customer unless these requirements are met.

I.A.l.f. Rule 15 of Article XLVIII

In response to the recommendation that copies of customer complaints be maintained at a central office and at relevant branch offices, we propose to require member firms to maintain a central, firm-wide file of all options-related complaints containing specified information concerning each complaint. Copies of the complaints themselves would also be forwarded to and maintained at the same central location. In addition, a copy of every options-related complaint would be maintained at the branch office that is the subject of the complaint.

I.A.l.g. Rule 4 of Article XLVIII

This proposed amendment to Rule 4 would require member firms that do a public business to specifically identify a Compliance Registered Options Principal having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision over all of the firm's options activities would remain with the SROP, although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The separation of responsibilities between the CROP and the SROP (except in those firms that choose to have non-sales SROP) provides for audit of compliance by someone having no sales functions, and yet recognizes that the leadership of most securities firms appropriately has and will continue to have sales functions in combination with supervisory responsibilities. In order to avoid placing unacceptable economic burdens upon smaller firms, the requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions or having 10 or less options registered representatives.

I.A.l.h. Rule 7 of Article XII

The new Rule provides for notification to the Exchange of disciplinary action taken against members. The Rule will call for written notification of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

The new Rule also extends the period of continued employees so long as an inquiry is commenced within one year following notice of termination.

I.A.l.i, j, k, and l. and I.A.3.a, b and c. Rule 4 of Article XIII

We propose to delete existing Rule 4, which currently deals with advertisements, market letters and sales literature, and by new Rule 4 to cover all communications to customers. The new rule, together with interpretations thereunder, will incorporate a number of different recommendations of the Options Study.

Proposed Rule 4 is designed to require the approval by the Compliance Registered Options Principal of all communications to customers and to further define the standards applicable to such communications. The new Rule would also provide for better coordination among the self-regulatory organization with respect to the approval of advertisements. Commentary .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers.

The recommendations that relevant costs and other assumptions used in computing annualized rates of return must be disclosed will be included in Commentary .03 under the Rule. This commentary also contains other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Commentary .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Complete work sheets would be required to be retained by member firms the same as all other written communications to customers. Commentary .03 also includes performance reports within the definition of "sales literature", and requires that they be approved by the Compliance Registered Options Principal and retained by the firm, and it contains standards for performance reports to assure that each such report is confined to a specifically identifiable and relevant universe.

Finally, the Rule and its commentary contemplate the distribution to all member firms of a publication entitled "Guidelines for Options Communications" that would provide further information concerning the standards applicable to communications to customers.

I.A.l.m. Rule 2 of Article L

We propose to amend this Rule by requiring members who choose to utilize a random allocation of exercise notices to use either an automated method that has been approved by an SRO, or the manual method that has been uniformly specified by all of the SROs. FIFO methods of allocation must also be approved by an SRO. Members will be required to notify their customers of the method of allocation utilized, explaining how it works.

I.A.l.n. Rule of Article L

We propose adding to Rule 2 a requirement that records relating to exercise allocation be preserved for three years. This period of retention will facilitate auditing compliance with required methods of exercise allocation.

I.A.1.o. and p. Rule 11 of Article XLVII

Rule 11 will be amended by adding a new requirement that Market Makers in options must inform the Exchange of all of the accounts in which they trade stock or options, and must also notify the Exchange of all orders for and positions in underlying securities and related securities. Both of these requirements will improve Exchange surveillance over the options-related trading activities of such persons.

I.A.2.b. Rule 4 of Article XLVIII

The proposed amendment to this Rule will require every branch manager to be qualified as a ROP, unless the branch office has not more than three RRs, and is otherwise under the supervision of a ROP. This requirement is one of a number of changes intended to improve

internal supervision of firm's options activities.

I.A.2.c. and I.A.2.d. Rule 6(a) of Article XLVIII

The proposed amendment to this Rule will require that customers over whose accounts members exercise investment discretion must be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed "Communications to Customers" rule. The amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions. Under existing Rule 6(a), a ROP who is a general partner or an officer must personally accept every discretionary account, and the added step of a SROP's review of the ROP's acceptance is intended to provide an additional level of supervisory audit over the acceptance of these kinds of accounts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange recognizes that, as is pointed out in several of the comments received from members, certain of the proposed rule changes will increase the costs to members in handling customers' options transactions, which in turn may place smaller member organizations at a competitive disadvantage. The Commission will have to determine whether the possible competitive burden of these rule changes is necessary or appropriate in furtherance of the Act in deciding whether to approve these rule changes.

(C) Self-Regulatory Organization's Statement on Comments Received from Members, Participants, or Others on Proposed Rule Changes

Comments on the proposed rule changes were solicited and received from members in several ways. First, representatives of the Securities Industry Association attended and actively participated in most of the meetings of the joint SRO task force that developed the rule changes. Second, a preliminary draft of the rule changes was mailed to every member of each of the SROs involved, with a request that comments be forwarded to any one of the seven signatory SROs. A large number of detailed comments were received in response to this mailing; comments are available for copying in the Commission's Public Reference Room. Many of the comments received in response to the preliminary draft led to revisions in the rule changes that are reflected in the proposals presented in Item 1 hereof. Where the SROs determined not to make changes in response to member comments, often the SROs were sympathetic to the concerns raised by the commentators, but felt that these concerns were outweighed by the emphasis that the Commission had placed upon the particular rule change that was the subject of the comment. The following is a summary of those comments received from members that are relevant to the proposed rule changes in their present form.

Recommendations I.A.1.a.–c. (Opening of Accounts)

A number of members commented that many customers will consider it burdensome and an invasion of privacy to have to provide personal financial information to their brokers, and will refuse to do so. Others questioned the relevance of much of the information that must be sought. In response to these comments, the list of information that must be obtained has been reduced, as explained in Item 3 above. Verification of customer information was subject to much criticism as being very expensive (especially for smaller firms) and not likely to be meaningful. While much of this comment was directed at the requirement for periodic verification, which has since been significantly reduced, the requirement for *any* verification was criticized by many members. One member criticized the inclusion of specific time requirements governing when the record of a new customer's background information must be first sent to him for verification, claiming that such time limits are arbitrary and artificial.

Recommendation I.A.1.d. and f. (Record-Keeping)

Many members criticized as unnecessarily duplicative and expensive the requirement that customer account records be kept both at headquarters and at the branch office.

Recommendation I.A.1.E. (Suitability)

Several firms expressed the belief that expanded concepts of suitability exposed firms to inappropriate risks of liability. Other comments were that customers should be able to make their own investment decisions without having to satisfy a third party, and that strict options suitability rules would drive customers into other, riskier, less regulated products. Specific criticism was made of the requirement that a broker must assess the customer's ability to evaluate risks, claiming that this goes beyond traditional concepts of suitability.

Recommendation I.A.1.g. (Non-Sales Options Compliance Person)

This proposal drew many comments pointing out the cost it would present for small firms. The expanded exemptive provisions of the rule as filed are included in response to this concern. Other comments objected to the concept of separating the sales function from compliance and supervision functions, while others expressed the view that the non-sales compliance officer would amount to a token appointment, but at a high cost. Many comments noted that the costs of complying with this requirement would place smaller firms at a competitive disadvantage.

Recommendation I.A.1.h. (Disciplinary Reports and Jurisdictions)

Some firms observed that a reporting requirement might inhibit firms from taking disciplinary action. Others noted the absence of clear standards defining what constitutes disciplinary action. Several comments objected to the apparent need to file duplicate reports (which will be eliminated upon the implementation of proposed 17d–2 plans). One comment endorsed the extension of SRO disciplinary jurisdiction over former members, while another comment expressed the view that this was improper and inconsistent with the spirit of the Act.

Recommendation I.A.1. i, j, k, l., and Recommendation I.A.3.a.–c. (Communications to Customers)

Comments suggested that this rule imposed too many responsibilities on the CROP, that centralized approval of communications to customers is unworkable, especially in a large firm, and that advance SRO approval of advertising is contrary to the trend in such matters. Many comments were addressed to the requirements applicable to specific types of written communications, generally criticizing them for being inflexible, unworkable, expensive to administer, and enlarging the firms' exposure to liabilities.

Recommendation I.A.1. m. and n. (Allocation of Exercise Notices)

Comments suggested that firms should be given more flexibility than this rule would permit, and that an explanation of exercise allocation would be confusing to customers. Others noted the expense involved in conforming data

processing equipment to required methods of allocation.

Recommendation I.A.1. o. and p. (Market-Makers' Account and Stock Orders)

Many comments characterized these requirements as burdensome and costly. It was suggested that these requirements should apply to exchange floor members only, and not to upstairs traders.

Recommendation I.A.2.b. (ROP Qualification of Branch Managers)

This requirement was criticized as being costly and not likely to result in improved supervision. Some suggested that it should be sufficient if an assistant manager or other supervisor is ROP-qualified, without requiring that the branch manager be so qualified.

Recommendation I.A.2. c. and d. (Discretionary Accounts)

Several firms commented that these requirements would so onerous as to inhibit firms from offering discretionary accounts. The requirement for providing an explanation of each strategy utilized in the account was the focus of special criticism. We have attempted to respond to this criticism by making the requirement apply to "programs" for trading options, but not to each separate strategy that might be used.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within 90 days of the date of publication of this notice in the **Federal Register**, the Commission will:

(A) By order approve such proposed rule changes, or

(B) institute proceeding to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–MSE–79–18 and should be submitted on or before November 2, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

October 5, 1979.

Additions Italicized—[Deletions Bracketed]

Recommendations Rule 3 Article XLVIII

I.A.1. a., b. and c. Opening of Accounts

(a) No member *or member organization* shall accept an order from a customer [for the] *to* purchase or [sale] *write* an option contract unless the customer's account has been approved for options trading in accordance with the provisions of this Rule.

[delete present (b)]

(b) Diligence in Opening Account. In approving a customer's account for options transactions, a member or member organization shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation, and shall make a record of such information which shall be retained in accordance with Rule 4(c) of Article XLVIII. Based upon such information, the branch office manager or other Registered Options Principal shall approve in writing the customer's account for options transactions; provided, that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal.

[delete present (c)]

(c) Verification of Customer Background and Financial Information. The background and financial information upon which the account of every new customer that is a natural person has been approved for options trading, unless the information is included in the customer's account agreement, shall also be sent to the customer for verification within fifteen (15) days after the customer's account has been approved for options transactions. A copy of the background and financial information on file with the member organization shall be sent to the customer for verification within fifteen (15) days after the member organization becomes aware of any material change in the customer's financial situation.

[delete present (d)]

(d) Agreements to be Obtained. Within fifteen (15) days after a customer's account has been approved for options transactions, a member organization shall obtain from the customer a written agreement that the account shall be handled in accordance with the Rules of the Exchange and the Rules of the Options Clearing Corporation and that such customer, acting alone or in concert with others, will not violate the position or exercise limits set forth in Rules 1 and 2 of Article XL.

(e) Prospectus to be Furnished. At or prior to the time a customer's account is approved for options transactions, a member organization shall furnish the customer with a current Prospectus as defined in Rule 6 of Article XLVIII.

[delete present Interpretations and Policies .01 through .06]

Interpretations and Policies

.01 In fulfilling its obligations pursuant to paragraph (b) of this Rule with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

1. Investment objectives (e.g., safety of principal, income, growth, trading profits, speculation)

2. Employment status (name of employer, self-employed or retired)

3. Estimated annual income from all sources

4. Estimated net worth (exclusive of family residence)

5. Estimated liquid net worth (cash, securities, other)

6. Marital status; number of dependents

7. Age

8. Investment experience and knowledge (e.g., number of years, size, frequency and types of transactions) for options, stocks and bonds, commodities, other

In addition, the customer's account records shall contain the following information, if applicable:

a. Source or sources of background and financial information (including estimates) concerning the customer

b. Discretionary trading authorization: agreement on file; name, relationship to customer and experience of person holding trading authority

c. Date prospectus furnished to customer

d. Types of transactions for which account is approved (e.g., buying,

covered writing, uncovered writing, spreading)

e. Name of registered representative

f. Name of ROP approving account; date of approval

g. Dates of verification of currency of account information

The member organization should consider utilizing a standard account approval form so as to ensure the receipt of all the required information.

02. Refusal of a customer to provide any of the information called for in .01 shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with other information available in determing whether and to what extent to approve the account for options transactions.

03. The requirement of paragraph (c) of this Rule for the initial and subsequent verification of customer background and financial information is to be satisfied by sending to the customer the information required in Item 1 through 6 of .01 above as contained in the member's records and providing the customer with an opportunity to correct or complete the information. In all cases, absent advice from the customer to the contrary, the information will be deemed to be verified.

[Delete present Rule 11 of Article XLVIII]

Rule 11 of Article XLVIII

I.A.I.c. Statement of Account

Statements of account shall be sent not less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to an option contract. The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.

[Delete present Rule 5 of Article XLVIII]

Rule 5 of Article XLVIII

I.A.1.e. Suitability

(a) No member, member organization or registered employee thereof shall recommend to any customer any transaction for the purchase or sale (writing) of an option contract unless such member, member organization or registered employee has reasonable grounds to believe that the entire recommended transaction is not unsuitable for such customer on the basis of information furnished by such customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by such member, member organization or registered employee.

(b) No member, member organization or registered employee thereof, shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract.

Rule 14 Article XLV111 (New)

I.A.1.f. Customer Complaints

Every member organization conducting customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) identification of complainant, (ii) date complaint was received, (iii) identification of Registered representative servicing the account, (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

[Delete present Rule 4 of Article XLVIII]

I.A.1.d.I.A.1.g.I.A.2.b. Rule 4 of Article XLVIII Supervision of Accounts

(a) Senior Registered Options Principal. In addition to the requirements of Rule 17 of Article VIII, every member shall provide for the diligent supervision of all its customer accounts, and all orders in such accounts, to the extent such accounts and orders relate to options contracts, by a general partner (in the case of a partnership) or officer (in the case of a corporation) of the member who is a Registered Options Principal and who has been specifically identified to the Exchange as the member's Senior Registered Options Principal.

(b) Compliance Registered Options Principal. Member organizations shall designate and specifically identify to the Exchange a Compliance Registered Options Principal, who may be the Senior Registered Options Principal and who shall have no sales functions and shall be responsible to review and to propose appropriate action to secure the member organization's compliance with securities laws and regulations and Exchange rules in respect of its options business. The Compliance Registered Options Principal shall regularly furnish reports directly to the compliance officer (if the Compliance Registered Options Principal is not himself the compliance officer) and to other senior management of the member organization. The requirement that the Compliance Registered Options Principal have no sales functions shall not apply to a member organization that has received less than $1,000,000 in gross commissions on options business as reflected in its FOCUS Report for either of the preceding two fiscal years or that currently has 10 or less Registered Representatives.

(c) Maintenance of Customer Records. Background and financial information of customers who have been approved for options transactions shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of options customers shall be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that branch for the most recent six-month period. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.

(d) Branch Offices. No branch office of a member organization shall transact options business with the public unless the principal supervisor of such branch office accepting options transactions has been qualified as a Registered Options Principal; provided, that this requirement shall not apply to branch

offices in which no more than three Registered Representatives are located, so long as the options activities of such branch offices are appropriately supervised by a Registered Options Principal.

Interpretations and Policies:

.01 The Senior Registered Options Principal in meeting his responsibility for supervision of customer accounts and orders, may delegate to qualified employees, including other Registered Options Principals, responsibility and authority for supervision and control of each branch office handling transactions in option contracts, provided that such Senior Registered Options Principal shall have overall authority and responsibility for establishilng appropriate procedures of supervision and control over such employees.

.02 In meeting their supervisory responsibilities, every member organization shall establish, maintain, and enforce written procedures governing the conduct of options accounts.

[Article VI. Rule 4 and Article I. Rule 2(d) are deleted]

I.A.1.h. Article XII, Rule 8 (New)

Disciplinary Jurisdiction

(a) A member or a person associated with a member (the "Respondent") who is alleged to have violated or aided and abetted a violation of any provision of the Securities Exchange Act of 1934, as amended ("Exchange Act"), the rules and regulations promulgated thereunder, or any constitutional provisions by-law or rule of the Exchange or any interpretation thereof or resolution of the Board of the Exchange regulating the conduct of business on the Exchange shall be subject to the disciplinary jurisdiction of the Exchange under these Rules, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction, in accordance with the provisions of these Rules.

(b) Any member or person associated with a member shall continue to be subject to the disciplinary jurisdiction of the Exchange following such person's termination of membership or association with a member with respect to matter that occurred prior to such termination; provided that written notice of the commencement of an inquiry into such matters is given by the Exchange to such former member or associated person within one year of receipt by the Exchange of written notice of the termination of such person's status as a member or person associated with a member.

[Delete present Rule 16 of Article VIII]

I.A.1.h. Rule 16 Article VIII Disciplinary Actions by Other Organizations

Disciplinary Action. Every member shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefor, taken by any national securities exchange or association, clearing corporation, commodity futures market or government regulatory body against the member or its associated persons, and shall similary notify the Exchange of any disciplinary action taken by the member itself against any of its associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of $2,500, or any other significant limitation on activities.

[Delete present Rule 4 of Article XIII]

I.A.1.i., j., k, l Rule 4 Article XIII

I.A.3.a., b., c. Communications to Customers

(a) General Rule. No member or member organization and no partner or employee thereof, shall utilize any advertisement, sales literature or other communications to customers or the public concerning options which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labelled as forecasts;

(iii) contains hedge clauses or disclaimers which are not legible, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste and truthfulness; or

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(b) Approval by Compliance Registered Options Principal. All advertisements and sales literature (except completed worksheets) issued by a member or member organization pertaining to options shall be approved in advance by the Compliance Registered Options Principal or his designee. Copies thereof, together with the names of the persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the member or member organization and be kept at an easily accessible place for examination by the Exchange for a period of three years.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval required by paragraph (b) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Exchange at least ten days prior to use (or such shorter period as the Exchange may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisement submitted to another self-regulatory organization having comparable standards pertaining to advertisements; and

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization.

(d) Except as otherwise provided in the Commentary hereunder, no written materials respecting options may be disseminated to any person who has not previously or contemporaneously received a current prospectus of The Options Clearing Corporation.

(e) Definitions. For purposes of this Rule, the following defintions shall apply:

(i) The term "advertisement" shall include any sales material that reaches a mass audience through public media, such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through written communications to customers or the public not required to be accompanied or preceded by a current prospectus of The Options Clearing Corporation.

(ii) The term "sales literature" shall include any written communication (not defined as an "advertisement") distributed or made available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard

forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any Exchange-produced materials pertaining to options.

[delete present Interpretations and Policies .01]

Interpretations and Policies

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any communication which discusses the uses or advantaes of options. In the preparation of communications respecting options, the following guidelines shall be observed:

A. Any statement referring to the potential opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss", should be balanced by a statement such as "of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for all investors. All communications discussing the use of options should include a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisement pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a prospectus of The Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus of The Options Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is The Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of The Options Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any state law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of recommendations or of past or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.

.03 Written communications (other than advertisements) pertaining to options shall conform to the following standards:

A. Such communications shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparison, recommendations, statistics or other technical data, will be supplied upon request.

B. Such communications may contain projected performance figures (including projected annualized rates of return), provided that:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) are disclosed;

(iv) such projections are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(v) all material assumptions made in such calculations are clearly identified (e.g., "assume option exercised," etc.);

(vi) the risks involved in the proposed transactions are also discussed;

(vii) in communications relating to annualized rates of return, that such returns are not based upon any less than a sixty-day experience; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions, provided that:

(i) any records or statistics must be confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include or offer to provide the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier;

(iii) such communications disclose all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) and, whenever annualized rates of return are used, all material assumptions used in the process of annualization;

(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;

(v) an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (e.g., comparison to an index) is valid;

(vi) such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(vii) a Registered Options Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

D. In the case of an options program (i.e., an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

E. Standard forms of options worksheets utilized by member organizations, in addition to complying with the requirements applicable to sales literature, must be uniform within a member organization.

F. Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.

[Delete present Rule 2 of Article L]

I.A.l.m. Rule 2 Article L

I.A.l.n. Allocation of Exercise Notices

(a) Each member organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in option contracts in such member organization's customers account. Such allocation shall be made on a "first-in, first-out" or automated random selection basis that has been approved by the Exchange or on a manual random selection basis that has been specified by the Exchange. Each member organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system.

(b) Each member shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no member shall change its method of allocation unless the change has been reported to and approved by the Exchange. The requirements of this paragraph shall not be applicable to allocation procedures submitted to and approved by another Exchange having comparable standards pertaining to methods of allocation.

(c) Each member organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise assignment notices to establish the manner in which allocation of such exercise notices is in fact being accomplished.

Interpretations and Policies:

.01 No change

I.A.l.o. Rule 11, Article XLVII (New)

Securities Accounts and Orders of Market Makers

(a) Identification of Accounts. In a manner prescribed by the Exchange, each Market-Maker shall file with the Exchange and keep current a list identifying all accounts for stock, option, and related securities trading in which the Market-Maker may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Market-Maker shall engage in stock, option, or related securities trading in an account which has not been reported pursuant to this Rule.

(b) Reports of Orders. In a manner prescribed by the Exchange, each Market-Maker shall, on the business day following order entry date, report to the Exchange every order entered by the Market-Maker for the purchase or sale of a security underlying options traded on the Exchange or a security convertible into or exchangeable for such underlying security as well as opening and closing positions in all such securities held in each account reported pursuant to Paragraph (a) of this Rule. The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times reports of executions were recived and, if all or part of the order was executed, the quantity and execution price.

(c) Joint Accounts. No Market-Maker shall, directly or indirectly, hold any interest or participate in any joint account for buying or selling any option contract unless each participant in such joint account is a member or member organization and unless such account is reported to and not disapproved by the Exchange. Such reports in form prescribed by the Exchange shall be filed with the Exchange before any transaction is effected on the Exchange for such joint account.

Interpretations and Policies:

.01 Each participant in such joint account shall be jointly and severally responsible for assuring that the account complies with the provisions of the Exchange Constitution, Rules and Interpretations thereof.

.02 In order to establish a joint account which acts in the capacity of a Market-Maker, there may not be more than two participants of which at least one shall be an individual who is registered as a Market-Maker. If the other participant in such joint account is to be a member organization, it shall either (a) have a registered Market-Maker register his membership for the organization, (b) have a nominee of the organization who is a registered Market-Maker or (c) be a clearing member which clears and carries such joint account. All references herein to individuals registered as Market-Makers shall mean those having appointments under Rule 3 of Article XLVII. Member organizations meeting the requirements of (a) and (b) above who participate in joint accounts shall be deemed to be registered as Market-Makers for the purpose of transactions in such accounts.

.03 Each participant in a joint account must:

(a) file with the Department of Market Regulation and thereafter keep current a completed application on such form as is prescribed by the Exchange;

(b) be registered in accordance with the provisions of Section 15(a)(i) of the Securities Exchange Act of 1934.

Upon determination by the Department of Market Regulation not to disapprove a joint account, notice will be promptly mailed to all Exchange members.

.04 The following formulae will be used in apportioning contract volume among participants in a joint account under Exchange Rules:

(a) For purposes of evaluating Market-Maker performance in accordance with Rule 6 of Article XLVII, all contract volume from the joint account shall be assigned to participants based upon their profit and loss participation in the joint account as shown on the joint account application. Notwithstanding this, however, where only one participant is an individual Market-Maker, he shall be assigned all of the volume in the joint account.

(b) For purposes of determining continued eligibility under Rule 3 of Article XLVII for Supplemental Appointment only, if a participant in the joint account also acts as a Floor Broker, contracts in any Market-Maker joint account in which said Floor Broker participates shall be assigned to him in accordance with the formula set forth in (a) above and shall be aggregated with contracts executed as a Market-Maker which are cleared through any individual trading account of such Floor Broker. If the number of contracts executed as a Floor Broker on a quarterly basis do not exceed the total number of contracts executed as a Market-Maker, such participant will be required to obtain a Principal Appointment.

(c) For purposes of assessing positions under Rule 1 of Article XL and exercises under Rule 2 of Article XL, the following presumptions shall apply (lacking any other information regarding "in-contcert" activity):

(i) A Market-Maker's position and exercises in his own trading account shall be aggregated with all of the positions in or exercises for any joint account in which he participates to determine whether or not the Market-Maker is in violation of Rule 1 and Rule 2 of Article XL.

(ii) Positions in and exercises for a joint account shall be aggregated with the positions and exercises of each participant in the joint account to determine whether or not the joint account is in violation of Rule 1 of Article XL.

(iii) If one of the participants is a member, organization, positions and exercises of the nominees of (and those registered for) the member organization (who are not also registered broker/dealers trading for their own account) must be aggregated in (i) and (ii) above.

.05 Participants in the joint account shall not execute transactions with the

joint account or among themselves either as Floor Broker or Market-Maker.

.06 Reports of accounts and orders required to be filed pursuant to paragraphs (a) and (b) of this Rule relate only to accounts in which a Market-Maker, individually, directly or indirectly, controls trading actitivies. Thus, reports would be required for accounts over which a Market-Maker exercises investment discretion as well as for his proprietary accounts. Reports would not be required simply because a Market-Maker has a passive interest in his firm's proprietary accounts. For purposes of this Rule, related securities include securities convertible into or exchangeable for underlying securities.

[Delete present Rule 6 of Article XLVIII]

I.A.2.c. Rule 6 Article XLVIII

I.A.2.d. Discretionary Accounts

(a) Authorization and Approval Required. No member and no partner, officer or employee of a member organization shall exercise any discretionary power with respect to trading in options contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. The Senior Registered Options Principal shall review the acceptance of each discretionary account to determine that the Registered Options Principal accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and he shall maintain a record of the basis for his determination. Each discretionary order shall be approved and initialled on the day entered by the branch office manager or other Registered Options Principal, provided that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal. Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by the Compliance Registered Options Principal. The provisions of this paragraph shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security shall be executed.

(b) Options Programs. Where the discretionary account utilizes options programs involving the systematic use of one or more options stategies, the customer shall be furnished with a written explanation meeting the requirements of Rule 4 of Article XIII the nature and risks of such programs.

(c) Prohibited Transactions. No member and no partner, officer or employee of a member organization having discretionary power over a customer's account shall, in the exercise of such discretion, execute or cause to be executed therein any purchases or sales of option contracts which are excessive in size or frequency in view of the financial resources and character of such account.

(d) Record of Transactions. A record shall be made of every transaction in option contracts in respect to which a member or a partner, officer or employee of a member organization has exercised discretionary authority clearly reflecting such fact and indicating the name of the customer, the designation and number of the option contracts, the premium and the date and time when such transaction was effected.

Interpretation and Policies:

.01 No change.

Effectiveness Timetable

MSE Rule and Number of Days Following Commission Approval

3(a) of Article XLVIII—30 days.
3 (b), (c), (d), and (e) of Article XLVIII—30 days for initial verification. 60 days for subsequent verification.
11 of Article XLVIII—60 days.
5 of Article XLVIII—30 days.
15 of Article XLVIII—60 days.
4(a) of Article XLVIII—Immediately.
4(b) of Article XLVIII—90 days.
4(c) of Article XLVIII—90 days.
16 of Article VIII—30 days.
7 of Article XII (new)—Immediately.
4(a) of Article XIII—Immediately.
4(b) of Article XIII—90 days; until then approval under present 4(a).
4 (c), (d) and (e) of Article XIII—Immediately.
2(a) of Article L—60 days.
2(b) of Article L—Immediately.
2(c) of Article L—60 days.
11 (a), (b) and (c) of Article XLVII—60 days.
4(d) of Article XLVIII—90 days.
6(a) of Article XLVIII—60 days.
6(b) of Article XLVIII—90 days.

[FR Doc. 79-31950 Filed 10-16-79; 8:45 am]

BILLING CODE 8010-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing—Baltimore, Md.

The Select Commission on Immigration and Refugee Policy will hold the first of 12 regional hearings on:

Date: October 29, 1979
Time: 9:00–5:00; 7:00–9:00 p.m.
Place: Edward A. Garmatz Federal Building-U.S. Courthouse, 101 W. Lombard Street, Baltimore, Maryland 21201.

The Baltimore hearing will be co-chaired by Senator Charles McC. Mathias and Representative Peter W. Rodino.

The major portion of this first hearing will be devoted to testimony from invited witnesses addressing issues relating to immigration and the U.S. economy, with particular emphasis on the regional and local labor force.

There will also be an "Open Mike" in the evening from 7:00–9:00 p.m. available to anyone wishing to address any issue before the Commission. Written statements will be acccepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to asure that a wide range of views are heard and considered by the Commission. Other hearings will be held in Chicago, Denver, Los Angeles, Miami, New Orleans, New York, Phoenix, San Antonio and San Francisco.

Anyone wishing more information about the Baltimore hearing or testifying at the evening session should contact: Elaine Daniels, Select Commission on Immigration and Refugee Policy, Suite 2020, New Executive Office Building, Washington, D.C. 20506.

Lawrence H. Fuchs,

Executive Director.

[FR Doc. 79-32007 Filed 10-16-79; 8:45 am]

BILLING CODE 6820-AR-M

SMALL BUSINESS ADMINISTRATION

[License No. 08/08-0051]

Denver Ventures, Inc.; Issuance of a Small Business Investment Company License

On August 6, 1979, a notice was published in the **Federal Register** (44 FR 46012) stating that an application has been filed by Denver Ventures, Inc., 4142 Tejon Street, Denver, Colorado 80211, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)) for a license as a small business investment company.

Interested parties were given until close of business August 21, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 08/08-0051 on September 27, 1979, to Denver Ventures, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 11, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-31942 Filed 10-16-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 10/08-0037]

Western Venture Resources, Inc.; Notice of License Surrender

Notice is hereby given that Western Venture Resources, Inc., 3734 Seattle-First National Bank Building, Seattle, Washington 98154, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Western Venture Resources, Inc. was licensed by the Small Business Administration on March 25, 1975.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted October 8, 1979, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 11, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-31943 Filed 10-16-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/240]

Advisory Committee to United States Section International North Pacific Fisheries Commission; Open Meeting

The advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on October 28, 1979, at the U.S. Embassy, Tokyo, Japan, at 3:30 p.m. The meeting will discuss the 1979 Protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research, the Alaska salmon fisheries, and fishery developments as they affect the International North Pacific Fisheries Commission. The meeting on October 28 will be open to the public.

Requests for further information on the meeting should be directed to Mr. Carl Price, Pacific Fisheries Officer, Room 5806 (OES/OFA), U.S. Department of State, Washington, D.C. 20520. Mr. Price can be reached by telephone on (202) 632-2883.

Dated: October 10, 1979.

Brian S. Hallman,

Acting Director, Office of Fisheries Affairs.

[FR Doc. 79-31954 Filed 10-16-79; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF THE TREASURY

Customs Service

Tariff Classification of Imported Cab Chassis

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice—Request for public comments.

SUMMARY: This is to advise that the Customs Service is reconsidering its practice of classifying imported cab chassis under the provision for bodies (including cabs) and chassis, in item 692.20, Tariff Schedules of the United States (TSUS), in view of the decision of the U.S. Court of Customs and Patent Appeals in *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979). As part of this review, Customs requests comments concerning the application of *Daisy-Heddon* to the tariff classification of cab chassis.

DATE: Comments must be received on or before (60 days from the date of publication in the **Federal Register**).

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C., 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

In a notice published in the **Federal Register** on September 2, 1975 (40 FR 40190), and modified on October 10, 1975 (40 FR 47806), Customs announced that it was reviewing its practice concerning the tariff classification of cab chassis (consisting of frames, suspension systems, wheels, engines, steering mechanisms and cabs) without bodies, having no cargo carrying capacity in their condition as imported. This action was taken after the contention was advanced that cab chassis should be classified under the provision for automobile trucks valued at $1,000 or more, in item 692.02, TSUS (19 U.S.C. 1202), dutiable at the rate of 25 percent ad valorem under 945.69, TSUS, following General Headnote 10(h), TSUS, rather than in accordance with the established and uniform practice.

After a review of the comments submitted in response to the notice, Customs concluded that the existing practice of classifying cab chassis was correct and should not be changed.

Following Customs decision in this matter, the General Accounting Office (G.A.O.), at the request of the Committee on Ways and Means, U.S. House of Representatives, examined Customs classification practices regarding imported cab chassis. The report subsequently issued by the G.A.O. noted that while it was difficult to conclude that the current classification practice was clearly wrong, the G.A.O. was of the opinion that the practice was questionable (Report by the Comptroller General of the United States, GGD 79-19, December 13, 1978). The International Trade Commission (I.T.C.) has recently released a report commenting on the G.A.O. study (Assessment of the December 13, 1978, Report of the Comptroller General of the United States, May 18, 1979). The I.T.C. report concluded that the present cab chassis classification practice is "clearly wrong".

After reviewing the G.A.O. report, the Treasury Department reaffirmed the correctness of the existing practice of classifying imported cab chassis as parts. This decision was based upon the following considerations:

(1) The fundamental customs principle that the tariff classification of an article must be determined by its condition at the time of importation;

(2) The fact that an essential part of a truck, the cargo bed, is missing from cab chassis;

(3) Evidence that legislative history favors the classification of cab chassis as parts;

(4) The "chief use" of cab chassis as parts of vehicles and not as vehicles themselves; and

(5) Administrative practice of long standing.

The second of these considerations was founded on the opinion of the Court of Customs and Patent Appeals in *Authentic Furniture Products, Inc.* v. *United States*, 61 CCPA 5, C.A.D. 1109 (1973). However, that Court issued a decision in June which expressly overruled the majority rationale in *Authentic Furniture*, but approved the result reached. (*Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979).)

In *Daisy-Heddon*, the Court stated:

* * * The result in *Authentic Furniture Products* does not merely depend on the "essential" nature, be it functional or commercial, of the omitted side rails. It is abundantly clear from the opinion of the Customs Court, which was approved by this court, that the basis of the decision in that case was that "it is the determination of this court that the importations do not constitute a substantially complete article." 68 Cust. Ct. at 215, 343 F. Supp. at 1380. Such a determination does not depend merely on the presence or absence of an "essential" part.

There are several factors which may come into play in the determination of whether an article is substantially complete. In a case, such as this, where the article is incomplete due to the omission of one or more parts, as opposed to where an article is incomplete because the material which comprises the article is in need of further processing, the following factors can be relevant: (1) Comparison of the number of omitted parts with the number of included parts; (2) comparison of the time and effort required to complete the article with the time and effort required to place it in its imported condition; (3) comparison of the cost of the included parts with that of the omitted parts; (4) the significance of the omitted parts to the overall functioning of the complete article; and, (5) trade customs, i.e., does the trade recognize the importation as an unfinished article or as merely a part of that article. This list of factors is not exhaustive; it must be recognized that fewer than all of the above factors, or additional factors, may come into play depending on the particular importation. The outcome of each case will always depend on the particular merchandise involved. It would be over-simplification of an essentially difficult juridical problem, often involving a determination of congressional intent, for us to attempt to provide anything more than guidelines for the trier of fact to follow in assessing a given case. * * *

On the basis of the Court's opinion in *Daisy-Heddon* Customs is again reviewing the tariff classification of imported cab chassis. As part of this review, written comments are invited from interested parties concerning the application of *Daisy-Heddon* to imported cab chassis. The comments should be directed primarily to the following issues:

(1) Are the 5 factors cited by the Court in *Daisy-Heddon* applicable to the tariff classification of cab chassis or should other factors or expressions of legislative intent govern?

(2) If the 5 factors are applicable, in what manner should they be applied? (Factual information regarding the number and relative value of parts involved may be relevant to this question.)

(3) Does the opinion of the Court in *Daisy-Heddon* require a finding that cab chassis should be classified under the superior heading "Motor vehicles (except motorcycles) for the transport of persons or articles"?

(4) If so, should they be classified under the inferior heading "Automobile trucks valued at $1,000 or more, and motor buses: Automobile trucks" (692.02, TSUS) or as "Other" (692.10, TSUS)?

Comments

Consideration will be given to any written comments, preferably in triplicate, timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices in Customs and the Treasury Department participated in its development.

Jack T. Lacy,

Acting Commissioner of Customs.

Approved: October 11, 1979.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 79-32174 Filed 10-16-79; 8:45 am]

BILLING CODE 4810-22-M

Removal of Prohibition on the Importation of Tuna and Tuna Products From Peru

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Peru no longer prevail.

EFFECTIVE DATE: The prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru is removed effective October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Office of Commercial Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, *et seq.*), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On May 1, 1979, a notice was published in the **Federal Register** (44 FR 25554) advising that under section 205(a)(4)(C) of the Act, on April 2, 1979, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Peru as a

consequence of a claim of jurisdiction which is not recognized by the United States. Under the authority of sections 205 (b) and (c) of the Act, on April 20, 1979, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohition no longer prevailed.

On September 11, 1979, the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru is removed.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: October 9, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-32144 Filed 10-16-79; 9:19 am]

BILLING CODE 4810-22-M

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 23-79]

Interest Rates on Bonds

The Secretary of the Treasury announced on October 11, 1979, that the interest rate on the bonds described in Department Circular—Public Debt Series—No. 23-79, as amended, dated October 1, 1979, will be 10⅛ percent. Interest on the bonds will be payable at the rate of 10⅛ percent per annum.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 79-31998 Filed 10-16-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 140]

Assignment of Hearings

October 11, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143059 (Sub-51F), Mercer Transportation Co., now assigned for continued hearing on November 6, 1979 at the Office of the Interstate Commerce Commission, Washington, DC.

MC 4491 (Sub-13F), Great Coastal Express, Inc., now assigned for hearing on October 29, 1979 (2 weeks), at New York, NY is postponed indefinitely.

MC 114569 (Sub-246F), Shaffer Trucking, Inc., now assigned for hearing on November 8, 1979 at Washington, DC is postponed and reassigned to December 3, 1979 (1 week) at Harrisburg, PA in a hearing room to be later designated.

MC 133937 (Sub-28F), now being assigned for continued hearing on November 15, 1979 (2 days) at Atlanta, GA, location of hearing room will be by subsequent notice.

MC 37165, Southern Pacific Transportation Company Rates And Classification of Iron Ore Within Texas, now assigned for hearing on November 27, 1979 (1 day) at Dallas, TX, in a hearing room to be later designated.

MC 110683 (Sub-135F), Smith's Transfer Corporation, now being assigned for hearing on January 8, 1980 (9 Days), at Louisville, KY, in a hearing room to be designated later.

MC 138438 (Sub-35F), D. M. Bowman, Inc., now assigned for hearing on November 7, 1979, at Washington, DC, is canceled and application dismissed.

MC 134838 (Sub-22F), Southeastern Transfer & Storage Co., Inc., Application dismissed.

MC 56679 (Sub-109F), Brown Transport Corporation, now being assigned for hearing on December 11, 1979 (9 Days) at Atlanta, GA, in a hearing room to be designated later.

MC 141952 (Sub-2F), Walter A. Junge, Inc., transferred to Modified Procedure.

MC 107012 (Sub-339F), North American Van Lines, Inc., transferred to Modified Procedure.

MC 41406 (Sub-119F), Artim Transportation System, Inc., transferred to Modified Procedure

MC 121664 (Sub-54F), Hornady Truck Line, a Corporation, now assigned for hearing on November 26, 1979 at Montgomery, AL, is canceled and transferred to Modified Procedure.

MC 93649 (Sub-23F), Gaines Motor Lines, Inc., now assigned for hearing on December 3, 1979, at Charlotte, NC, is canceled and reassigned to December 3, 1979 (1 week) at New York, NY, location of hearing room will be designated later.

MC 143701 (Sub-7F), William Oberste, Inc., transferred to Modified Procedure.

MC 59135 (Sub-38F), Red Star Express Lines of Auburn, Inc., transferred to Modified Procedure.

MC 134084 (Sub-6), Shrock Trucking, Inc., transferred to Modified Procedure.

MC 145406 (Sub-16F), Midwest Express, Inc., transferred to Modified Procedure.

MC 2066 (Sub-5F), R. M. Sullivan Transportation, Inc., now assigned for hearing on November 5, 1979 (1week) at Hartford, CT, will be held at the Examination Conference Room, Room 529, Federal Building, 450 Main Street.

MC 143812 (Sub-3F), Martin E. Van Diest, d.b.a. M. Van Diest Co., now assigned for hearing on November 27, 1979 (2 days), at Los Angeles, CA in a hearing room to be later designated.

MC 129537 (Sub-40F), Reeves Transportation Co., now assigned for hearing on December 3, 1979 (5 days), at New Orleans, LA in a hearing room to be later designated.

James H. Bayne,

Acting Secretary.

FR Doc. 79-31983 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 3]

Automobile Transporters Tariff Bureau, Inc.; Section 5a Application 94

The Commission is in receipt of an application in the above proceeding for the approval of amendments to the approved agreement.

Filed June 4, 1979 by: Eugene C. Ewald, Attorney for Applicant, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013; Matheson, Bieneman, Parr, Schuler & Ewald of Counsel, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013.

The amendments involve: Changes to comply with Ex Parte 297, 349 ICC 811 and 351 ICC 437.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before November 6, 1979. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to

investigate and determine the matters involved without public hearing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31981 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Rev. S. O. No. 1312; Exception No. 15]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; Exception To Order

Because of the inability of the railroad to assemble the cars, a movement of fifty (50) loaded covered hopper cars will be seriously delayed on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) enroute to Chicago, Illinois. Cargill desires to ship a fifty (50) car unit-grain-train to Chicago routed MILW–CNW. The consignee at Chicago is badly in need of the grain, but only forty-five (45) covered hoppers have arrived at the loading point of Emmetsburg, Iowa. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to operate a fifty (50) car unit-grain-train from Emmetsburg, Iowa, to Chicago, Illinois, comprised of fifty (50) privately owned covered hopper cars, on a one trip basis, with a minimum of forty-five (45) loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to privately owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 15 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective September 24, 1979.

Expires 11:59 p.m., October 10, 1979.

Issued at Washington, D.C., September 24, 1979.

Robert S. Turkington,

Acting Director.

[FR Doc. 79-31979 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Corrected Exception No. 4; Amdt. No. 1]

Burlington Northern Inc.; Exception Under Section (a)(4) Corrected Second Revised Service Order No. 1301

To: Burlington Northern Inc.

Upon further consideration of Corrected Exception No. 4 and good cause appearing therefor:

It is ordered: Corrected Exception No. 4 to Corrected Second Revised Service Order No. 1301 is amended to *expire November 30, 1979.*

Issued at Washington, D. C., September 26, 1979.

Interstate Commerce Commission,

Joel E. Burns,

Director, Bureau of Operations.

[FR Doc. 79-31974 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; 39th Rev. Exemption No. 12]

Exemption Under Mandatory Car Service Rules

To all railroads:

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(b), and 2(b).

Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company
Reporting Marks: CIM
*Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI—ROCK
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hartford and Slocum Railroad Company
Reporting Marks: HS
Hillsdale County Railway Company Inc.
Reporting Marks: HCRC
Lackawaxen and Stourbridge Railroad Corporation
Reporting Marks: LASB
Maryland and Pennsylvania Railroad Company
Reporting Marks: MPA
Pickens Railroad Company
Reporting Marks: PICK

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-31977 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Second Rev. Exemption No. 171]

Because of a strike, the Chicago, Rock Island and Pacific Railroad Company (RI) is unable to relocate empty cars to other stations for loading or to return them promptly to car owners in accordance with Car Service Rules 1 and 2. Consequently, RI is unable to furnish cars of suitable ownerships to shippers while at the same time similar cars of other ownerships are idle because of the inability of the RI to return them to owners.

It is ordered, that pursuant to the authority vested in me by Car Service Rule 19:

(a) The Chicago, Rock Island and Pacific Railroad Company (RI) is authorized to accept from shippers general service freight cars described in paragraph (b) owned by other railroads regardless of the provisions of Car Service Rules 1 and 2. This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' orders requiring return of cars to owners.

(b) This exemption is applicable to general service freight cars bearing reporting marks assigned to railroads listed in the Official Railway Equipment Register, ICC RER 6410–B issued by W. J. Trezise, or successive issues thereof as having the following mechanical designations:

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*Addition.

Plain boxcars: "XM", "XMI", "XMIH"
Gondola Cars: "GA", "GB", "GD", "GH", "GS", "GT"
Hopper Cars: "HFA", "HK", "HM", "HMA", "HT", "HTA"
Flat Cars: "FM", less than 200,000 lb. capacity

(c) Carriers connecting with the RI may accept and bill general service freight cars listed in paragraph (b) owned by other railroads which are received in switching service from RI regardless of the provisions of Car Service Rules 1 and 2.

Effective September 28, 1979.
Expires October 12, 1979.

Issued at Washington, D.C., September 27, 1979.
Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-31976 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; 33rd Rev. Exemption No. 129]

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
*Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
*St. Louis Southwestern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.
Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-31973 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; 5th Rev. Exemption No. 141]

Exemption Under Mandatory Car Service Rules Ordered

To all railroads:

It appearing, That the railroads named below own numerous plain gondola cars less than 61-ft.; that under present conditions there are surpluses of these cars on their lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, ICC RER No. 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

*Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI–ROCK
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP–CWP&S
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Louisiana Midland Railway Company
Reporting Marks: LOAM
Maryland and Delaware Railroad Company
Reporting Marks: MDDE

*Additions.
*Addition.

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.
Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-31975 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 12, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of the application has been granted.

FSA 43753, Southwestern Freight Bureau, Agent, No. B–33, reduced rates on furniture from stations in Southern Territory to stations in Southwestern Territory published in to be published in its Tariff ICC SWFB 2007–H. Grounds for relief—motor competition and improved car utilization. Protests against grant of relief are due at the offices of the Commission, Suspension and Fourth Section Board in Washington, D.C., not later than noon, October 24, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-31984 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 1, 1979.

FSA No. 43747, Southwestern Freight Bureau, Agent's No. B–25, rates on lime, in bulk carloads, from stations in Arkansas, Missouri, Oklahoma and Texas, to Donaldsonville, La., in Supplement 47 to its Tariff ICC SWFB 4798, to become effective November 4, 1979. Grounds for relief—market competition.

FSA No. 43749, Southwestern Freight Bureau, Agent's No. B–27, rates on ethyl chloride, in tank carloads, from Lake Charles, West Lake Charles, La.; Bayport, Baytown, Freeport and Houston, Tex., to Carney's Point (Deepwater) and Deepwater (Carney's Point), N.J., in Supplement 39 to its Tariff ICC SWFB 4616, to become effective November 1, 1979. Grounds for relief—market competition.

FSA No. 43751, Southwestern Freight Bureau, Agent's No. B–26, rates on

sugar, in tank carloads, from Colorado, Kansas and Nebraska, to Dallas, Ft. Worth, Garland and Great Southwest, Tex., in Supplement 19 to its Tariff ICC SWFB 4412, to become effective October 30, 1979. Grounds for relief—market competition.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-31976 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 36]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: October 3, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications with be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 21788 (Sub-2 M1F), filed April 26, 1979. Petitioner: J. A. GRIMM & WHEELING MOTOR EXPRESS, INC., 2995 Grand Ave., Neville Township, Allegheny County, Pittsburgh, PA. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Petitioner holds motor *common carrier* Certificate in MC 21788 (Sub-2) issued February 15, 1978. MC 21788 (Sub-2) authorizes transportation, over regular routes, of *general commodities,* (1) between Waynesburg, PA, and (a) Washington, (b) Brownsville, and (c) Point Marion, PA, (2) between Carmichaels and Uniontown, PA, and (3) between Pittsburgh and Waynesburg. In parts (1) and (2) no service is authorized to or from Washington, Waynesburg, or Point Marion, PA, for pick-up and delivery of traffic originating at or destined to said points. In part (3) no service is authorized to or from Pittsburgh, Washington or Waynesburg for pick-up and delivery of traffic originating at or destined to said points. By the instant petition, petitioner seeks to modify the authority as follows: Delete the service restrictions described above.

MC 25399 and (Subs-5(M1F), 6(M1F), 7(M1F), 8(M1F), 10(M2F), 11(M1F), and 14(M1F)), filed July 2, 1979. Applicant: A-P-A TRANSPORT CORP., 2100 88th Street, North Bergen, NJ 07934. Representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934Petitioner holds motor *common carrier* certificates in MC–25399 Subs 5, 6, 7, 8, 10, 11, and 14 issued May 7, 1969, April 29, 1971, September 12, 1974, February 14, 1972, January 31, 1973, June 15, 1977, September 25, 1975, and July 20, 1977, respectively, authorizing the transportation of (1) Irregular routes, *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, Between points in Bergen, Essex, Hudson, Middlesex, and Passaic Counties, on the one hand, and, on the other, Owego, NY, points in that part of Connecticut west of U.S. Highway 5, those in that part of New York east and south of New York Highway 7, those in that part of Pennsylvania east of a line beginning at the Maryland-Pennsylvania state line and extending northward along unnumbered highway (formerly portion U.S. Highway 111) via Shrewsbury, Loganville, and Jacobus, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along unnumbered highway to junction Pennsylvania Highway 295 (formerly portion U.S. Highway 111), then along Pennsylvania Highway 295 via Zions View and Strinestown, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along Interstate Highway 83 to junction U.S. Highway 11, then along U.S. Highway 11 to the Pennsylvania-New York State line, including points on the indicated portions of the highways specified. Between points in Hudson, Essex, and Bergen Counties, NJ, on the one hand, and, on the other, Bridgeport, CT, and points in that part of New York east of a line beginning at the New York-New Jersey State line and extending through Greenwood Lake, NY, to Amsterdam, NY, and south of a line beginning at Amsterdam, NY, and extending along New York Highway 5S to Schenectady, NY then along New York Highway 7 to the New York-Vermont State line, including New York, NY, points on Long Island, NY, and those on the indicated portions of the highways specified. Between points in Union County, NJ, on the one hand, and, on the other, Bridgeport, CT. Between points in Union County, NJ, on the one hand, and, on the other, points in that part of Connecticut west of U.S. Highway 5 and those in that part of Pennsylvania east of a line beginning at the Maryland-Pennsylvania State line and extending northward along unnumbered highway (formerly U.S. Highway 111) via Shrewsbury, Loganville and Jacobus, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along Interstate Highway 83 to junction unnumbered highway (formerly portion U.S. Highway 111), then along unnumbered highway to

junction Pennsylvania Highway 295 (formerly portion U.S. Highway 111), then along Pennsylvania Highway 295 via Zions View and Strinestown, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along Interstate Highway 83 to junction U.S. Highway 11, then along U.S. Highway 11 to the Pennsylvania-New York State line, including points on the indicated portions of the highways specified. Between Newark, Kearny, and Harrison, NJ, on the one hand, and, on the other, points in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665. Between New York, NY, and points in Nassau and Westchester Counties, NY, on the one hand, and, on the other, points in Hunterdon, Morris, Sussex, and Warren Counties, NJ, and those in that part of Mercer County, NJ, on and north of New Jersey Highway 33. Between Hackettstown, NJ, and Newark, NJ. Between Hackettstown, NJ, on the one hand, and, on the other, points in Warren and Sussex Counties, NJ. Between Hackettstown, NJ, on the one hand, and, on the other, points in Morris County, NJ.

General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in the Philadelphia, PA, Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Camden, Gloucester, Burlington, Mercer, Ocean, Monmouth, Middlesex, and Somerset Counties, NJ. Between points in Camden, Gloucester, Burlington, Mercer, Ocean Monmouth, Middlesex, and Somerset Counties, NJ. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, office furniture and equipment, and commodities injurious or contaminating to other lading, between points in New Haven County, CT, on the one hand, and, on the other, points in Connecticut. *Lard* and *dog food*, from Long Island City, NY, to Scranton, PA, and Binghamton, NY, with no transportation for compensation on return except as otherwise authorized. *Waste paper and materials, machinery, and equipment*, used in the manufacture of paper, paperboard, and paperboard products, from points in Bergen, Essex, Hudson, Mercer, Passaic, Somerset, Union, Middlesex, Monmouth and Morris Counties, NJ, and those in the New York, NY, Commercial Zone as defined by the Commission 1 M.C.C. 665, to points in Saratoga and Washington Counties, NY, with no transportation for compensation on return except as otherwise authorized. Between Newark, NJ, on the one and, and, on the other, points in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665. *Paper, paperboard products and machiery* used in the manufacture of paper, paperboard and paperboard products, from points in Saratoga and Washington Counties, NY, to points in Bergen, Essex, Hudson, Mercer, Passaic, Somerset, Union, Middlesex, Monmouth, and Morris Counties, NJ, and those in the New York, NY Commercial Zone as defined by the Commission in 1 M.C.C. 665, with no transportation for compensation on return except as otherwise authorized. From Newark, NJ, to points in New York in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665, with no transportation for compensation on return as otherwise authorized. (2) Regular routes, *General commodities*, except classes A and B explosives, coal, coke, currency or precious metals and gem materials, dynamite, furs, sand, gravel, crushed stone, iron or steel articles exceeding 30 feet in length, alcoholic beverages, livestock, silk, raw or finished, and bulky or heavy freight the dimensions of which exceed 7 feet in width, 6 and one-half feet in height, and 25 feet in length, or weighing in excess of 6,000 pounds, and liquid chemicals in bulk, between Albany, NY, and New York, NY, serving all intermediate points: From Albany over U.S. Highway 9 to New York, and return over the same route. Between Albany, NY, and Amsterdam, NY, serving all intermediate points: From Albany over New York Highway 5 to Amsterdam, and return over the same route.

Regular and Irregular Routes, *General commodities*, except classes A and B explosives, coal, coke, currency or precious metals and gem materials, dynamite, furs, sand, gravel, crushed stone, iron or steel articles exceeding 30 feet in length, alcoholic beverages, livestock, silk, raw or finished, and bulky or heavy freight, the dimensions of which exceed 7 feet in width, 6 and one-half feet in height, and 25 feet in length, or weighing in excess of 6,000 pounds, and liquid chemicals in bulk, Between New York, NY, and points in Essex, Hudson and Union Counties, NJ, Points in that part of Bergen County, NJ, on and south of New Jersey Highway 4, points in that part of Passaic County, NJ, on, south, and east of the Passaic River, and points in that part of Middlesex County, NJ, on and north of the Raritan River, and Fort Edward, NY, serving all intermediate points on the specified regular route. From New York and points in the above-described New Jersey territory over irregular routes, to junction New Jersey Highway 17, then over New Jersey Highway 17 to the New Jersey-New York State line, then over New York Highway 17 to Harriman, NY, then over U.S. Highway 6 to Central Valley, NY, then over New York Highway 32 to Newburgh, NY, then over U.S. Highway 9–W to Albany, NY, then over New York Highway 32 to junction U.S. Highway 4, and then over U.S. Highway 4 to Fort Edward, NY, and return over the same route to junction irregular routes, then over irregular routes, to above-specified origin points. Irregular routes, *General commodities*, except classes A and B explosives, coal, coke, currency, or precious metals and gem materials, dynamite, furs, sand, gravel, crushed stone, iron or steel articles exceeding 30 feet in length, alcoholic beverages, livestock, silk, raw or finished and bulky or heavy freight the dimensions of which exceed 7 feet in width, 6 and one-half feet in height and 25 feet in length, or weighing in excess of 6,000 pounds and liquid chemicals in bulk, between New York, NY, points in Essex, Hudson, and Union Counties, NJ, points in that part of Bergen County, NJ, on and south of New Jersey Highway 4, points in that part of Passaic County, NJ, on, south and east of the Passaic River, and points in that part of Middlesex County, NJ, on and north of the Raritan River, on the one hand, and, on the other, Fort Edward, NY. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and liquid chemicals in bulk, between points in Union County, NJ, on the one hand, and, on the other, points in New York within 200 miles of Newark, NJ. Between Newark, NJ, and points in New Jersey (except Union County) within 20 miles of Newark, on the one hand, and, on the other, points in New York within 200 miles of Newark, NJ. (except Oswego, NY, and points east and south of New York Highway 7, including points on the highway specified). Restriction, the authority granted under the two routes next above shall be considered as a single grant, which may not be tacked or joined one to the other, for the purpose of performing any through transportation. Between points in the New York, NY, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in that part of New Jersey north of a line from the New Jersey-Pennsylvania State line

at Trenton, NJ, to Asbury Park, NJ, including the points named. (3) Regular routes, *Bakery products*, serving Manchester, NH, as an off-route point in connection with carrier's regular-route operations authorized herein. Serving Concord, NH, as an off-route point in connection with carrier's regular-route operations authorized herein. Restriction, the authority granted above is restricted against the transportation of traffic originating at or destined to points in Massachusetts or Rhode Island.

General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Hartford, CT, and New Haven, CT, serving all intermediate points, from Hartford, CT over U.S. Highway 5 to New Haven, and return over the same route. From Hartford over Connecticut Highway 9 to Middletown, CT, and then over Connecticut Highway 17 to New Haven, and return over the same route. From Hartford over Connecticut Highway 17 to Durham Center, CT, then over Connecticut Highway 77 to Guilford, CT, and then over U.S. Highway 1 to New Haven, and return over the same route. From Hartford to Guilford as specified above, then over U.S. Highway 1 to New Haven, and return over the same route. From Hartford over Connecticut Highway 71 to New Britain CT, then over Connecticut Highway 174 to junction Connecticut Highway 72, then over Connecticut Highway 72 to Plainville, CT, and then over Connecticut Highway 10, via Hamden, CT, to New Haven (also, from Hamden, CT, over Connecticut Highway 10A to New Haven), and return over the same routes. Between Hartford, CT, and Bridgeport, CT, serving all intermediate points, from Hartford over U.S. Highway 6 to Thomaston, CT, then over Connecticut Highway 8 to Shelton, CT, and then over Connecticut Highway 110 to Bridgeport, and return over the same route. From Hartford over Connecticut Highway 4 to junction Connecticut Highway 10, thence over Connecticut Highway 10 to Plainville, CT, then over Connecticut Highway 72 to junction U.S. Highway 6, then over U.S. Highway 6 to Thomaston, CT, then over Connecticut Highway 8 to Shelton, CT, and then over Connecticut Highway 8 to Bridgeport, and return over the same route. Between Framington, CT, and Thomaston, CT, serving all intermediate points. From Framington over Connecticut Highway 4 to Torrington, CT, and then over Connecticut Highway 8 to Thomaston, and return over the same route. Between junction Connecticut Highway 4 and unnumbered highway, near Collinsville, CT, and Torrington, CT, serving all intermediate points. From junction Connecticut Highway 4 and unnumbered highway over Connecticut Highway 4 to junction Connecticut Highway 179, then over Connecticut Highway 179 to Collinsville, CT, then over unnumbered highway to junction U.S. Highway 44, northwest of Canton, CT, then over U.S. Highway 44 to Winsted, CT, then over Connecticut Highway 8 to Torrington, and return over the same route. Between Waterbury, CT, and Middletown, CT, serving all intermediate points. From Waterbury over Connecticut Highway 66 to Middletown, and return over the same route. Between Seymour, CT, and Danbury, CT, serving all intermediate points. From Seymour over Connecticut Highway 115 to Derby, CT, then over Connecticut Highway 34 to Sandy Hook, CT, and then over U.S. Highway 6 to Danbury, and return over the same route. Serving the off-route points of Waterville, Watertown, Woodbury, Southbury, Bethel, Brookfield, Bridgewater, New Milford, Washington, Rosbury, Bethlehem, Morris, Litchfield, Middlefield, Bloomfield, Glastonbury, and Batam, CT, in connection with the regular routes described above. Between Boston, MA, and Hartford, CT, serving all intermediate points, and the off-route points of Monson, Chicopee, Chicopee Falls, Indian Orchard, Holyoke, Agawam, Gilbertville, Barre, Barre Plains, Florence, Northampton, North Brookfield, Warren, West Warren, Wilbraham, Williamansett, Rutland, Ludlow, West Springfield, Mittineague, and Westfield, MA, and Suffield and Poqnonock, CT. From Boston over Massachusetts Highway 9 to Ware, MA, then over Massachusetts Highway 32 to Palmer, MA, then over U.S. Highway 20 to Springfield, MA, and then over U.S. Highway 5 to Hartford (also from Springfield, MA, over Alternate U.S. Highway 5 to Hartford), and return over the same route.

Between Boston, MA, and Hartford, CT, serving all intermediate points, and the off-route points of Holland, Oxford, North Osford, Southbridge, Brimfield, Sturbridge, Needham, Wellesley, Natick, Hopkinton, Ashland, Framingham, Marlboro, Hudson, Stow, Shrewsbury, Berlin, Clinton, Boyleston, Northboro, Westboro, Saxonville, and Southboro, MA, and Rockville, Manchester, and South Manchester, CT. From Boston over Massachusetts Highway 9 to junction U.S. Highway 20, then over U.S. Highway 20 to junction Massachusetts Highway 15, then over Massachusetts Highway 15 to the Massachusetts-Connecticut State line, then over Connecticut Highway 15 to East Hartford, CT, and then over U.S. Highway 6 to Hartford, and return over the same route. Between Boston, MA, and Providence, RI, serving all intermediate points, and the off-route points of Westwood, East Walpole, Norfolk, City Mills, Franklin, Blackstone, Millville, and Bellingham, MA, and Harrisville, Pascoag, North Smithfield, Greystone, Georgiaville, and Manton, RI. From Boston over Massachusetts Highway 1A to junction Massachusetts Highway 121, then over Massachusetts Highway 121 to the Massachusetts-Rhode Island State line, then over Rhode Island Highway 114 to Woonsocket, RI, then over Rhode Island Highway 102 to Chepachet, RI, then over U.S. Highway 44 to Providence (also from Woonsocket over Rhode Island Highway 122 to Providence) and return over the same routes. Between Boston, MA, and Providence, RI, serving all intermediate points, and the off-route points of Sharon, Foxboro, East Mansfield, Norton, Attleboro, Plainville, and Attleboro Falls, MA, and Saylesville, Manville, Ashton, Valley Falls, Central Falls, East Providence, and Rumford, RI. From Boston over U.S. Highway 1 to Providence and return over the same route. Between Boston, MA, and Providence, RI, serving all intermediate points, and the off-route points of Canton, North Easton, Somerset, Swansea, Rehoboth, and Seekonk, MA, and Warren, Bristol and Barrington, RI. From Boston over Massachusetts Highway 138 to Fall River, MA, and then over U.S. Highway 6 to Providence, and return over the same route. Between Boston, MA, and Providence, RI, serving all intermediate points. From Boston over Massachusetts Highway 1A to junction U.S. Highway 1, and then over U.S. Highway 1 to Providence, and return over the same route. From Boston over Massachusetts Highway 138 to Taunton, MA, and then over U.S. Highway 44 to Providence, and return over the same route. Between Providence, RI, and Peace Dale, RI, serving all intermediate points. From Providence over U.S. Highway 1 to Wakefield, RI, and then over unnumbered highway to Peace Dale, and return over the same route. Between Boston, MA, and New Bedford, MA, serving all intermediate points, and the off-route points of Holbrook, Braintree, Abington, Witman, and East Bridgewater, MA. From Boston over Massachusetts Highway 28 to Bridgewater, MA, then over

Massachusetts Highway 18 to junction Massachusetts Highway 140, and then over Massachusetts Highway 140 to New Bedford, and return from New Bedford, over U.S. Highway 6 to Fall River, MA, and then over Massachusetts Highway 138 to Boston. Between Boston, MA, and Worcester, MA, serving all intermediate points and the off-route points of Medway, East Holliston, Sherbon, Dover, Crafton, Upton, West Upton, Millbury, Whitinsville, and Auburn, MA. From Boston over U.S. Highway 1 to Dedham, MA, then over Massachusetts Highway 109 to Milford, MA, then over Massachusetts Highway 16 to Uxbridge, MA, and then over Massachusetts Highway 122 to Worcester, and return over the same route. Between Boston, MA, and Rockland, MA, serving all intermediate points and the off-route points of Hingham, Norwell, and Hanover, MA. From Boston over Massachusetts Highway 3 to Assinippi, MA, and then over Massachusetts Highway 123 to Rockland, and return over the same route. Between Boston, MA, and Maynard, MA, serving all intermediate points, and the off-route points of Sudbury and Lincoln, MA. From Boston, over U.S. Highway 20 to Waltham, MA, then over Massachusetts Highway 117 to junction Massachusetts Highway 27, and then over Massachusetts Highway 27 to Maynard, and return over the same route. Between Boston, MA, and Beverly, MA, serving all intermediate points, and the off-route points of Winthrop, Marblehead, Peabody, Everett, Malden, Saugus, Danvers, and Swampscott, MA. From Boston over Massachusetts Highway 107 to Lynn, MA, and then over Massachusetts Highway 1A to Beverly, and return over the same route.

Between Boston, MA and Haverhill, MA, serving all intermediate points, and the off-route points of Methuen, Graniteville, Forge Village, North Acton, Concord, Lexington, Littleton, Ayer, Andover, North Andover, and North Chelmsford, MA. From Boston over Massachusetts Highway 1A to Beverly, MA, and then over Massachusetts Highway 97 to Haverhill, and return from Haverhill over Massachusetts Highway 110 to Littleton Common, MA, and then over Massachusetts Highway 2A to junction Massachusetts Highway 2, and then over Massachusetts Highway 2 to Boston. Between Boston, MA, and Haverhill, MA, serving all intermediate points, and the off-route points of Malden, Melrose, Medford, North Reading, Wakefield, and North Andover, MA. From Boston over Massachusetts Highway 28 to Lawrence, and return over the same route. Between Littleton Common, MA, and Worcester, MA, serving all intermediate points. From Littleton Common over Massachusetts Highway 110 to Worcester, and return over the same route. Between Littleton Common, MA, and Gardner, MA, serving all intermediate points and the off-route points of North Leominster, Leominster, Groton, West Groton, and Shirley, MA. From Littletown Common over Massachusetts Highway 2A to junction Massachusetts Highway 2, then over Massachusetts Highway 2 to South Gardner, MA, and then over Massachusetts Highway 68 to Gardner, and return over the same route. Between Boston, MA, and Amesbury, MA, serving all intermediate points, and the off-route point of Merrimac, MA. From Boston over U.S. Highway 1 to Newburyport, MA, then over Massachusetts Highway 113 to junction unnumbered highway, and then over unnumbered highway to Amesbury, and return over the same route. Between Boston, MA, and Lowell, MA, serving all intermediate points, and the off-route points of Cambridge, Somerville, Winchester, Woburn, North Woburn, North Billerica, Wilmington, Tewksbury, North Chelmsford, Dracut and Bedford, MA. From Boston over U.S. Highway 3 to Lowell, and return over the same route. Between Oxford, MA, and New London, CT, serving all intermediate points, and the off-route points of Thompson, Pombert, Brooklyn, Moosup, Taftville, and Montville, CT. From Oxford over Massachusetts Highway 12 to the Massachusetts-Connecticut State line, then over Connecticut Highway 12 to junction U.S. Highway 1, and then over U.S. Highway 1 to New London, and return over the same route. Between Sturbridge, MA, and Palmer, MA, serving the intermediate points of Brimfield, MA. From Sturbridge over U.S. Highway 20 to Palmer and return over the same route. Between Providence, RI, and Lowell, MA, serving all intermediate points and the off-route points of Bristo, Cranston, Greystone, Olneyville, Thornton, Manton, Stillwater, and Warren, RI, and Dracut, Forge Village, Quincy, Graniteville, North Chelmsford, North Andover, Methuen and Norton, MA, and those within 10 miles of the State House of Boston, MA. From Providence over U.S. Highway 1 to Boston, MA, and then over Massachusetts Highway 38 to Lowell, and return over the same route. From Providence over U.S. Highway 1 to Boston, MA, then over U.S. Highway 3 to junction Massachusetts Highway 3A, then over Massachusetts Highway 3A to Lowell, and return over the same route. From Providence over Rhode Island Highway 122 to Woonsocket, RI, then over Rhode Island Highway 114 to the Rhode Island-Massachusetts State line, then over Massachusetts Highway 121 to Wrentham, MA, then over Massachusetts Highway 140 to junction U.S. Highway 1, and then to Lowell as specified above, and return over the same route. Between Providence, RI, and Haverhill, MA, serving all intermediate points, and the off-route points of Bristol, Cranston, Greystone, Olneyville, Thornton, Manton, Stillwater, and Warren, RI, and Dracut, Forge Village, Quincy, Graniteville, North Chelmsford, North Andover, Methuen, and Norton, MA, and those within 10 miles of the State House at Boston, MA.

From Providence over U.S. Highway 44 to Taunton, MA, thence over Massachusetts Highway 138 to Boston, MA, thence over Massachusetts Highway 28 to Lawrence, MA, and thence over Massachusetts Highway 110 to Havehill, and return over the same route. From Providence over Rhode Island Highway 122 to Woonsocket, RI, thence over Rhode Island Highway 114 to the Rhode Island-Massachusetts State line, thence over Massachusetts Highway 121 to Wrentham, MA, thence over Massachusetts Highway 1A to Boston, and thence to Haverhill as specific above, and return over the same route. From Providence over U.S. Highway 44 to junction Alternate U.S. Highway 1, thence over Alternate U.S. Highway 1 to junction U.S. Highway 1, thence over U.S. Highway 1 to junction Massachusetts Highway 1A, thence over Massachusetts Highway 1A to Boston, and thence to Haverhill as specified above, and return over the same route. Between Maynard, MA, and Boston, MA, serving all intermediate points, and the off-route points of Hudson, MA. From Maynard over Massachusetts Highway 27 via Sudsbury, MA, to Wayland, MA, and thence over U.S. Highway 20 to Boston, and return over the same route. Between Uxbridge, MA, and Woonsocket, RI, serving all intermediate points. From Uxbridge over Massachusetts Highway 122 to the Massachusetts-Rhode Island State line, and thence over Rhode Island Highway 122 to Woonsocket, and return over the same route. Between junction Connecticut Highways 15 and 20 (east of Staffordville, CT), and junction Connecticut Highways 74 and 30 (east of Rockville, CT), serving all intermediate points. From junction Connecticut Highways 15 and 20 over relocated Connecticut Highway 15 to junction

Connecticut Highway 74, thence over Connecticut Highway 74 via Tolland, CT, to junction Connecticut Highway 30, and return over the same route. *General commodities,* except those of unusual value, commodities in bulk, livestock, classes A and B explosives, household goods as defined by the Commission, and commodities requiring refrigeration or special equipment, Between Boston, MA, and Barre, MA, serving all intermediate points. From Boston over U.S. Highway 20 to junction Massachusetts Highway 9, thence over Massachusetts Highway 9 to Worcester, MA, and thence over Massachusetts Highway 122 to Barre, and return over the same route. From Boston over Massachusetts Highway 9 to Worcester, MA, and thence to Barre as specified above. Between Lawrence, MA, and Lowell, MA, serving all intermediate points. From Lawrence over Massachusetts Highway 110 to Lowell, and return over the same route. Between Lowell, MA, and North Chelmsford, MA, serving all intermediate points. From Lowell over U.S. Highway 3 to North Chelmsford, and return over the same route. Between Boston, MA, and Woonsocket, RI, serving all intermediate points. From Boston, over U.S. Highway 1 to junction Massachusetts Highway 140, thence over Massachusetts Highway 140 to Wrentham, MA, (also from Boston over Massachusetts Highway 1A to Wrentham), thence over Massachusetts Highway 121 to the Massachusetts-Rhode Island State Line, thence over Rhode Island Highway 114 to Woonsocket, and return over the same route. *Wool,* from Boston, MA, to Barre, MA, serving the intermediate point of Gilbertville, MA, for delivery only. From Boston over U.S. Highway 20 to junction Massachusetts Highway 9, thence over Massachusetts Highway 9 to Worcester, MA (also from Boston over Massachusetts Highway 9 to Worcester, MA), thence over Massachusetts Highway 9 to junction Massachusetts Highway 32, and thence over Massachusetts Highway 32 to Barre, and return over the same routes with no transportation for compensation except as otherwise authorized. *Books, magazines, paper, waste paper and platforms,* Between Lowell, MA, and Concord, NH, serving no intermediate points. From Lowell over U.S. Highway 3 to Concord, and return over the same route. *Printed matter, oil, and textile machinery and parts, except commodities requiring special equipment,* from Uxbridge, MA to Woonsocket, RI, serving no intermediate points. From Unxbridge over Massachusetts Highway 122 to the Massachusetts-Rhode Island State line and thence over Rhode Island Highway 122 to Woonsocket and return over the same route, with no transportation for compensation except as otherwise authorized.

General Commodities, except those of unusual value, classes H and B, explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Irregular routes, *Magazines,* From Old Saybrook, CT, to points in Massachusetts, Rhode Island and New York authorized to be served by carrier over regular routes in the transportation of general commodities, with specified exceptions, as authorized herein. *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Danbury, Waterbury, Hartford, East Hartford, Hew Haven, Southbury, Long Hill, Stepney, Trumbull, Newton, Ansonia, South Norwalk, and Old Greenwich, CT, on the one hand, and, on the other, Pelham, Yonkers, and White Plains, NY, and Jersey City, Newark, Hoboken, and Edgewater, NJ. *Wool, waste, and cloth,* Between Boston, MA, and points within 10 miles of Boston, on the one hand, and, on the other, points in Connecticut and Rhode Island. *Wool, wool products, mohair, rayon rags, and burlap bags and supplies,* used in connection with the manufacture of textiles, except liquid commodities in bulk, Between Franklin, NH, and Tilton, NH. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, Between Boston, MA on the one hand, and, on the other, points in Massachusetts within 10 miles of Boston. *Wool and wool shoddy,* Between Newton, MA, on the one hand, and, on the other, Harrisville, NH, Wickford, RI, and points in Providence County, RI. *Wool and wool products,* Between points in Massachusetts and Rhode Island. *Oil, paints, ventilating fans, rubberized fabric and cloth, and jack lifts, and truck,* except commodities requiring special equipment, Between Newton and Watertown, MA, on the one hand, and, on the other, points in Providence County, RI. *Empty containers,* except those requiring special equipment, From Harrisville, NH, Wickford, RI, and points in Providence County, RI, to Watertown and Newton, MA, with no transportation for compensation on return except as otherwise authorized. *General commodities,* except those of unusual value, livestock, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring refrigeration or special equipment, Between Boston, MA, on the one hand, and, on the other, points in that part of Massachusetts on an east of Massachusetts Highway 12, Between points in that part of Massachusetts on and east of Massachusetts Highway 12, on the one hand, and, on the other, points in Rhode Island. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, Between Boston, MA, and points in Massachusetts within 40 miles of Boston, MA, on the one hand, and, on the other, points in Rhode Island and Connecticut and those in that part of New Hampshire south of a line beginning at the New Hampshire-Maine line, and extending along U.S. Highway 202 to Hillsboro, NH, and then along New Hampshire Highway 9 to the Connecticut River, including points on the indicated portions of the highways specified. Between New York, NY, on the one hand, and, on the other, New London, Danbury, Norwich, and Willimantic, CT. Between New Britain, CT, and Worcester, MA.

Wool, wool products, mohair, rayon rags, and burlap bags, Between Boston, MA, and points in Massachusetts, within 40 miles of Boston, MA, on the one hand, and, on the other, Franklin, Derry, and Manchester, NH, points in Rhode Island, those in Massachusetts on and south of a line beginning at South Duxbury, MA, and extending westerly through Bridgewater, MA, to the Massachusetts-Rhode Island State line, and those in that part of Connecticut east of a line beginning at the Connecticut-Massachusetts State line and extending along Alternate U.S. Highway 5 to Hartford, CT, then along U.S. Highway 5 to New Haven, CT, then along U.S. Highway 1 to Norwalk, CT, then south along Connecticut Highway 136 via South Norwalk, CT, to Long Island Sound, including points on the indicated portions of the highway specified. Between Barre, MA, and Peace Dale, RI. *Heavy machinery and machine parts,* except commodities which require the use of special equipment. Between points in Massachusetts, on the one hand, and, on the other, New York, NY, and points in Rhode Island, Connecticut, New Hampshire, Vermont and

Massachusetts. Between points in that part of New Hampshire south and east of a line beginning at Portsmouth, NH, and extending along U.S. Highway 4 to junction U.S. Highway 202, and then along U.S. Highway 202 to the New Hampshire-Massachusetts State line, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in Rhode Island. *Textile supplies,* except in bulk, and commodities requiring special equipment. Between Franklin, NH, on the one hand, and, on the other, Boston, MA, and points in Massachusetts within 40 miles of Boston, MA. *Shop furniture,* From New Britain, CT, to points in New York, with no transportation for compensation on return except as otherwise authorized. *Wrenches,* From New Britain, CT, to Poughkeepsie, NY, with no transportation for compensation on return except as otherwise authorized. *Groceries,* From New Britain, CT, to points in Connecticut, with no transportation for compensation on return except as otherwise authorized. *Packinghouse products, eggs, and empty containers,* for such commodities, except commodities requiring special equipment, Between Hartford, CT, on the one hand, and, on the other, Millerton, NY. Irregular routes, *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between New Windsor and Glenmont, NY, on the one hand, and, on the other, Meriden, CT. Irregular routes, *General commodities,* (except articles of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Scranton, PA, and New Windsor, NY. Irregular routes, *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Philadelphia, PA, on the one hand, and, on the other, points in Salem, Atlantic, Cumberland, and Cape May Counties, NJ. Irregular routes, *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities, the transportation of which requires special equipment). Between Syracuse and Glenmont, NY, and Canton, MA. Irregular routes, *General commodities,* (except commodities of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Springfield, MA (except points in Connecticut, within the Springfield, MA. Commercial Zone, as defined by the Commission), on the one hand, and, on the other, points in Berkshire, Franklin, Hampden, Hampshire, and Worcester Counties, MA. By the instant petition, petitioner seeks to modify the territorial description by eliminating the present irregular and regular operations and in lieu thereof substituting *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities, the transportation of which requires special equipment), over irregular routes, Between points in the states of PA, NJ, NY, CT, MA, RI and NH, Between points in the Philadelphia, PA Commercial Zone as defined by the Commission.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before November 19, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 112801 (Sub-203F) (republication), filed July 5, 1978, previously noticed in the **Federal Register** issue of August 31, 1978. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. By the Commission, Review Board Number 2, decided July 19, 1979, and served August 6, 1979, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup, sugar, and blends of corn syrup and sugar,* in bulk, in tank vehicles, from Cincinnati, OH, to St. Louis, MO, and points, in IL, IN, KY, MS, NC, OH, TN, VA, and WV. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add Kentucky and Ohio as a destination territory.

MC 115841 (Sub-631F) (republication), filed ???? 13, 1978, previously noticed in the **Federal Register** issue of July 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street NW., Washington, DC 20001. By the Commission, Review Board Number 2, decided March 6, 1979, and served April 3, 1979, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air conditioning and heating equipment,* and *materials, equipment, and supplies* used in the manufacture and distribution of air conditioning and heating equipment, from the facilities of Heil Quaker Corporation at or near Murfreesboro, TN, to points in OK, AZ, CO, UT, NV, CA, NM, NE, KS, SD, OR, and WA. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose for this republication is to show the origin point of Murfreesboro, TN.

MC 121006 (Sub-4F) (republication), filed June 14, 1978, published in the **Federal Register** issue of September 14, 1978, and republished this issue. Applicant: GADSEN TRUCK LINE, INC., 1708 Mount Zion Ave., Gadsen, Alabama 35901. Representative: John P. Calton, 727 Frank Nelson Bldg., Birmington, Alabama 35203. A Decision of the Commission, Review Board Number 2, decided July 24, 1979, and served August 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, in interstate or foreign commerce (A), over irregular routes, transporting (1) *iron and steel articles,*

from the facilities of Republic Steel Corporation and Hanna Steel Corp., in Etowah County, AL, to points in Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to the transportation of traffic originating at the named facilities, and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (a) between Gadsen, AL, points in Etowah, Cherokee, DeKalb, Jackson, Marshall, Madison, Morgan, Cullman, Blount, Jefferson, Shelby, Talladega, Cleburne, Clay, Randolph, Calhoun, and St. Clair Counties, AL, those in Limestone County, AL, on, south, and east of a line beginning at the Madison-Limestone County line and extending along U.S. Hwy 72 to junction U.S. Hwy 31, and then along U.S. Hwy 31 to the Tennessee River, those in Coosa County, AL, on and north of U.S. Hwy 280, those in Walker County, AL, on and east of Alabama Hwy 69, and those in Tallapoosa County, AL, on and north of Alabama Hwy 22, and (b) between Gadsen, AL, on the one hand, and, on the olther, Decatur, Mobile, and Montgomery, AL: and (B), over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Birmingham and Gadsen, AL; from Birmingham over Interstate Hwy 59 to junction U.S. Hwy 278, then over U.S. Hwy 278 to Gadsen, and return over the same route, serving no intermediate points. Conditions: (1) The authorities set forth in parts (A)(2) (a) and (b) may be tacked in order to provide a through service will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the authority by adding the tacking information.

MC 121060 (Sub-65F) (republication), filed June 7, 1978, previously noticed in the **Federal Register** issue of November 24, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. By the Commission, Review Board Number 1, decided September 6, 1979, and served September 12, 1979, find that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by wholesale and retail chain and grocery houses and foodstuff manufacturers* (except in bulk) between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the commodity description.

MC 126358 (Sub-14F) (2nd republication), filed April 3, 1978, published in the **Federal Register** issue of June 22, 1978 and June 11, 1979, and republished this issue. Applicant: BENNETT TRUCKING CO., a Corporation, P.O. Box 526, Hawkinsville, GA 31036. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. An Order of the Commission, Division 2, decided September 12, 1979, and served September 18, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *lumber* (except plywood and veneer), (1) from Union Springs, Dothan, and Glenwood, AL, to points in FL, GA, and SC; (2) from Blountstown, FL, to points in AL, GA, MS, NC, and TN, and (3) from Albany, Bainbridge, Buena Vista, Damascus, La Grange, Mitchell, Preston, Thomaston, GA, and points in Peach and Crawford Counties, GA, to points in AL, FL, GA, MS, NC, SC, TN, and VA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 144760F (republication), filed May 15, 1978, previously noticed in the **Federal Register** issue of October 19, 1978. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. By the Commission, Review Board Number 2, decided July 26, 1979, and served August 13, 1979, finds that operation by applicant, as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *radioactive wastes*, from the facilities of (a) Zione Nuclear Plant, at Zion, IL, (b) Dresden Nuclear Station at Morris, IL (c) Quad Cities Nuclear Station at Cordoba, IL, (d) Duan-Arnold Energy Center, at Palo, IA, and (e) Donald C. Cook Nuclear Station, at Bridgeman, MI, to Barnwell, SC, Beatty, NV, and Richland, WA; and (2) *radio-active shipping containers*, from Barnwell, SC, Beatty, NV, and Richland, WA, to the origin facilities named in (1) above, under continuing contract(s) in (1) and (2) with Hittman Nuclear and Development Corporation, of Columbia, MD, will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add Beatty, NV, and Richland, WA in part (2) and to delete the restriction in part (1) in reference to shipper owned containers trailers.

MC 145240F (republication), filed August 21, 1978, previously noticed in the **Federal Register** issue of September 28, 1978. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 North Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. By the Commission, Review Board Number 3, decided April 30, 1979, and served May 25, 1979, finds that operation by applicant, as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *floor coverings, and materials and supplies* used in the installation of floor coverings, (1) from points in NJ, PA, GA, CA and MS, to points in TX, OK, AR, LA, MS, MO, CO, UT, AZ, KS, NM, and TN; and (2) between points in TX, OK, AR, LA, MS, KS, MO, CO, UT, AZ, TN, NM and CA, under continuing contract(s) with L. D. Brinkman & Company of Irving, TX, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add California as an origin state in (1) above.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal**

Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Authority Decisions

Decision-Notice

Decided: October 1, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members, Parker, Hill, and Fortier.

Broker Authority

MC 12721 (Sub-1F), filed May 4, 1979. Applicant: BECKHAM TRAVEL SERVICE, INC., 587 Washington St., Canton, MA 02021. Representative: R. Bruce Beckham (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Canton and Boston, MA, and Concord, Laconia, and Nashua, NH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the United States (including AK and HI). (Hearing site: Boston, MA.)

MC 130605F, filed September 17, 1979. Applicant: WILLIAM J. AND MARY E. PARKE, d.b.a. DELTONA/LONGWOOD TRAVEL, 1853-A State Rd. 434, Longwood, FL 32750. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. To engage in operations, in interstate or foreign commerce, as a *broker*, at Longwood and Deltona, FL, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in FL, and extending to points in the United States (including AK and HI). NOTE: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291(1952). (Hearing site: Orlando, FL.)

Finance Applications; Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before November 16, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently

upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC–F–14001F Applicants: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. INTERFREIGHT CORPORATION, 2429 E. Washington Blvd., Los Angeles, CA 90021. Representatives Transferee: Edward J. Hegarty and Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transferor: Milton W. Flack, Suite 300, 4311 Wilshire Boulevard, Los Angeles, CA 90010. Authority sought for purchase by MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104, of a portion of the operating rights, as more specifically described in Certificate of Registration No. MC–98890 (Sub–No. 3), of INTERFREIGHT CORPORATION, 2429 E. Washington Blvd., Los Angeles, CA 90021, and for acquisition by Sun Carriers, Inc. and, in turn, by Sun Company, Inc., both of 100 Matsonford Road, Radnor, PA 19087, of control of the operating rights through the purchase. Operating rights sought to be transferred: General commodities (with certain exceptions) as a common carrier over regular routes: (1) Between the San Francisco Territory, on the one hand, and the Los Angeles Basin Territory, on the other hand; (2) Between the San Francisco Territory, on the one hand, and the San Diego Territory, on the other hand; (3) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within 20 miles laterally of said highway and (4) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within twenty miles laterally of said highway, on the one hand, and the Los Angeles Basin Territory and the San Diego Territory, on the other hand, via State Highway 99 and Interstate Highway 5 between Bakersfield and the Los Angeles Basin Territory and Interstate Highways 5 and 15 (U.S. Highway 395), and State Highway 1 between the Los Angeles Basin Territory and the San Diego Territory, with service to all intermediate points located on and along said highways and serving all points within twenty miles laterally of said highways mentioned. Operating rights sought to be retained: General commodities (with certain exceptions) as a common carrier. (1) To, from, and between all points and places located in the Los Angeles Basin Territory, and (2) between the Los Angeles Basin Territory, on the one hand, and the San Diego Territory, on the other hand, via Interstate Highways 5 and 15 (U.S. Highway 395) and State Highway 1, serving all intermediate points and places located within twenty miles laterally of the named highways. Milne Truck Lines, Inc. is authorized to operate as a common carrier in AZ, CA, ID, NV, UT and WY. Application has been filed for temporary authority under section 210a(b) and for conversion to Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicants request that it be held at San Francisco and Los Angeles, CA.

MC–F–14093 F. Authority sought for control by SCHIAVONE CHARTERS, INC., 243 Universal Drive, North Haven, CT 06473, of Valley Transportation, Inc., 516 Oxford Road, Oxford, CT, and subsequent merger of Valley Transportation, Inc. into Schiavone Charters, Inc., and for acquisition by Schiavone Transportation Corp., Michael Schiavone & Sons, Inc. and Joel Schiavone, Michael Schiavone and Esther Schiavone, through the acquisition by Schiavone Charters, Inc. of control of Valley Transportation, Inc. Applicant's attorneys: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103 and L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Operating rights sought to be controlled and merged: authority to operate as a *common carrier* in the transportation of passengers and their baggage and express and newspapers in the same vehicle with passengers over regular routes between Waterbury, and Bridgeport, CT and between Port Chester, NY and Stamford, CT; passengers and their baggage in charter operations: (1) from Trumbull, CT and points within 30 miles of Trumbull to points in NY, NJ, MA, RI and PA and (2) from points in CT (except points in New London County) to points in 11 states and DC; and special operations (1) between numerous specified points in CT and named racetracks in NY, (2) from points in CT (except points in New London County) to points in 4 states and DC, (3) from numerous specific points in CT to portions of NY and MA, (4) beginning and ending at specified points in CT and extending to points in 7 specified states, (5) beginning and ending at specified points in CT and extending to Yankee and Shea Stadiums in New York City, all as more fully described in Certificates of Public Convenience and Necessity issued in MC–109865 Subs 5 and 13 and certificate to be issued in MC–109865 Sub 14F and broker license issued in MC–12723 authorizing brokerage operations at Bridgeport, CT in arranging transportation for passengers in special and charter operations in roundtrip, all expense tours beginning and ending at points in Fairfield, New Haven and Hartford Counties, CT and extending to points in the U.S. (including AK and excepting HI). Schiavone Charters, Inc. holds no authority from the I.C.C. but is affiliated with Connecticut Limousine Service, Inc. which conducts bus and limousine operations between nineteen points in CT, on the one hand, and, on the other, the John F. Kennedy International Airport and La Guardia Airport in New York City and Newark Memorial Airport, Newark, NJ. Application has been filed for temporary authority under Section 210a(b) and has been granted by decision served August 31, 1979.

*Corrected**

Captioned Summary for Publication in the Federal Register

MC–F–14138F. Transferee: SMITH's TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Transferor: FREDERICK J. FAURIE d.b.a. F F EXPRESS 438 Countyline Road, Bensenville, IL 60166. Applicant's Representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036 and Neil H. Garson, 3251 Old Lee Hwy, Fairfax, VA 22030. Authority sought to be purchased: Certificate of Registration No. MC–98662 (Sub-No. 2) authorizing generally the transportation of general commodities by motor carrier between a fifty mile radius of Chicago on the one hand, and, on the other, points in IL. Transferee is authorized pursuant to No. MC–110683 (and subs thereunder) to operate as a common carrier by motor vehicle in AL, AR, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI. Application has been filed for TA under 49 U.S.C. 11349. Related applications have also been filed under 49 U.S.C. 10922 and 10928 providing for the conversion of the Certificate of Registration to a Certificate of Public Convenience and Necessity and a conversion from irregular routes to regular routes. The proposed regular routes are structured to connect with

*Corrected to reflect applicant's request for authority to serve all points in Illinois as off-route point in connection with applicant's regular route authority requested upon conversion.

transferee's existing regular routes in IL, IA, IN, and KY and include (1) between Chicago, IL and Paducah, KY, serving all intermediate points and serving Paducah for joinder only; (2) between Rockford, IL, and Cairo, IL, serving all intermediate points; (3) between E. St. Louis, IL, and Terre Haute, IN, serving all intermediate points and serving Terre Haute for joinder only; (4) between E. St. Louis, IL, and Evansville, IN, serving all intermediate points and serving Evansville for joinder only; (5) between Rock Island, IL, and Marshall, IL, serving all intermediate points; (6) between Chicago, IL, and Burlington, IA, serving all intermediate points; (7) between Rock Island, IL, and E. St. Louis, IL, serving all intermediate points; serving in connection with carriers regular routes all points in IL as off-route points. The applications filed under 49 U.S.C. 10922 and 10928 are filed with certificates of support.

MC-F-14142F. Authority sought by The Edward Corporation for Orin S. Neiman to become a member of the Board of Directors of Transcon Lines, 101 Continental Boulevard, El Segundo, CA 90245. Applicant's attorneys: Wentworth Griffin, Esquire, Griffin, Dysart, Taylor, Penner & Lay, P.C., 1221 Baltimore Avenue, Kansas City, MO 64105 for Transcon Lines, and Paul F. Beery, Beery & Spurlock CO., L.P.A., 275 East State Street, Columbus, OH 43215, for The Edward Corporation and Orin S. Neiman.

Orin S. Neiman has been requested to become a member of the Board of Directors of Transcon Lines. Commission approval may be required since Orin S. Neiman controls The Edward Corporation, which holds all of the outstanding common stock of Ohio Fast Freight, Inc., a motor carrier, and Ohio Fast Freight, Inc. owns all of the outstanding common stock of Bellevue Trucking Corporation and Case Heavy Hauling, Inc., both motor carriers.

MC-F-14170F. Authority sought for control by Country Wide Truck Service, Inc. 1110 South Reservoir Street, Pomona, CA 91766 of R. F. Box, Inc., P.O. Box 25604, Albuquerque, NM 87125 and for acquisition by Stuart F. Jaquay also of Pomona, CA 91766 of control of R. F. Box, Inc. through the acquisition. Representatives: K. Edward Wolcott, Esq., Watkins & Daniell, P.C., P.O. Box 56387, Atlanta, GA 30343. Kendall O. Schlenker, Esq., Schlenker, Craig & Lebeck, P.O. Box 925, Albuquerque, NM 87103. Operating rights sought to be controlled: Specified commodities, as a contract carrier, over irregular routes, from, to and between specified points in the States of: AZ, CA, CO, ID, KS, MT, NE, NV, NJ, NM, NY, OK, OR, PA, SD, TX, VA, VT, WA, and WY as more specifically described in the R. F. Box, Inc. permits in MC-136989. Application has been filed for Temporary Authority under 49 U.S.C. 11349. (Hearing site: Los Angeles, CA or Albuquerque, NM.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before November 16, 1979. Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 29555 (Deviation No. 36) (Amendment), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed August 8, 1979, and published in the **Federal Register** on September 7, 1979, as amended September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *General Commodity*, with certain exceptions, over deviation routes as follows: (1) from Rockford, IL, over US Hwy 51 to junction US Hwy 30, then over US Hwy 30 to Cedar Rapids, IA, and (2) from Rockford, IL, over US Hwy 51 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, IA, (3) from Rockford, IL, over US Hwy 51 to junction Illinois Hwy 5, then over Illinois Hwy 5 to junction US Hwy 30, then over US Hwy 30 to Cedar Rapids, IA, and (4) from Rockford, IL, over US Hwy 51 to junction Illinois Hwy 5, then over Illinois Hwy 5 to Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, IA, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Rockford, IL, over US Hwy 20 to Independence, IA, then over Iowa Hwy 150 to Cedar Rapids, IA, and (2) from Rockford, IL, over US Hwy 20 to Waterloo, IA, then over US Hwy 63 to junction US Hwy 6, then over US Hwy 6 to Des Moines, IA, and return over the same routes. NOTE: The purpose of this amendment is to include deviation routes 3 and 4 which were inadvertently omitted.

MC 30605 (Deviation No. 31), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, P.O. Box 56, Wichita, KS 67201, filed September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Raton, NM, over U.S. Hwy 87 to Amarillo, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Raton, NM, over U.S. Hwy 85 to Albuquerque, NM, then over U.S. Hwy 66 to Amarillo, TX, and return over the same route.

MC 30605 (Deviation No. 32), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, P.O. Box 56, Wichita, KS 67201, filed September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Kansas City, KS, over Interstate Hwy 435 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction alternate U.S. Hwy 71 near Carthage, MO, then over alternate U.S. Hwy 71 to junction U.S. Hwy 71 south of Neosho, MO, then over U.S. Hwy 71 to Fort Smith, AR, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: Kansas City, KS, over U.S. Hwy 40 to Lawrence, KS, then over U.S. Hwy 59 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction New U.S. Hwy 169 near Cherryvale, KS, then over New U.S. Hwy 169 to junction U.S. Hwy 169 near Coffeyville, KS, then over U.S. Hwy 169 to Coffeyville, KS, then over U.S. Hwy 166 to Caney, KS, then over U.S. Hwy 75 to junction New U.S. Hwy 75 near Bartlesville, OK, then over New U.S. Hwy 75 to junction U.S. Hwy 75 near Ramona, OK, then over U.S. Hwy 75 to Tulsa, OK, then over U.S. Hwy 64 to Fort Smith AR, and return over the same route.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31980 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[S.O. No. 1344; I.C.C. ORDER NO. 50-A]

Rerouting of Traffic

To: All Railroads.

Upon further consideration of I.C.C. Order No. 50, and good cause appearing therefor:

Upon further consideration of I.C.C. Order No. 50, and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 50 is vacated.

This order shall become effective September 27, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroad subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-31972 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

Section of Rail Services Planning; Notice of Public Hearings

October 11, 1979.

The Interstate Commerce Commission today announced dates in October and early November for public hearings to consider the need for continued directed service over the bankrupt Chicago, Rock Island and Pacific Railroad Company. The initial 60-day period of directed service ends December 3, 1979.

On September 26, the ICC directed the Kansas City Terminal Railway Co. (KCT)—a swtiching company owned by 12 other railroads—to provide service for 60 days over the Rock Island lines, effective at 12:01 a.m., September 27. Under the Interstate Commerce Act, the Commission can extend the existing directed service for an additional 180 days.

The purpose of the public hearings is to identify which Rock Island services are "essential" and to identify those critical shipping points which do not receive adequate service from other railroads or other transportation modes. "The public input we receive at these hearings will have a substantial impact on the Commission's decision on continuing the Rock Island directed service," ICC Chairman Daniel O'Neal said.

To expedite the informal hearings, the ICC is requesting parties to coordinate their presentations with other participants representing similar interests. The ICC also requests that, if possible, written statements be submitted and that an oral summary of the testimony be presented during the hearings. No cross examination of witnesses will be permitted. The presiding officer, however, may ask questions of the witnesses.

Persons who wish to testify at the hearings should call the ICC's Section of Rail Services Planning toll free number—800-424-5204—between 7:30 a.m. and 5:00 p.m. (Central-Time) to arrange a convenient time to testify. Information about the hearings also may be obtained from the Section of Rail Services Planning at (202) 275-0831.

The Office of Rail Public Counsel has announced that it will be available to assist anyone interested in participating in the hearings. The Rail Public Counsel is an idependent federal agency, affiliated with the ICC, whose statutory duties include representing to the Commission the views of those communities and users of rail services which would not otherwise be represented in an ICC proceding, and assuring the development of a full public interest record. The Office of Rail Public Counsel's address is Suite 200, 1030 15th Street, N.W., Washington, D.C. 20005. The Rail Public Counsel may also be reached at (202) 254-7803.

The hearing locations, dates and times follow:

Rock Island Directed Service Hearings Locations, Dates, and Times

Little Rock, Arkansas, Sheradon Motor Inn, 6th & Ferry, Room B, Little Rock, Arkansas, October 22, 1979, 9:30 a.m. & 7:30 p.m.

Denver, Colorado, Main Post Office, Auditorium, Room 269, 1823 Stout Street, Denver, Colorado, October 25, 1979, 9:30 a.m.

Chicago, Illinois, Palmer House, Dining Room #17, 17 East Monroe, Chicago, Illinois, October 30, 1979, 9:30 a.m. & 7:30 p.m.

Rock Island, Illinois, City Counsil Chambers, City Hall, 1520 3rd Avenue, Rock Island, Illinois, October 25, 1979, 9:30 a.m. & 7:30 p.m.

Des Moines, Iowa, Best Western Airport Inn, Gateroom 1, 1810 Army Post Road, Des Moines, Iowa, October 29, 1979, 9:30 a.m. & 7:30 p.m.

West Bend, Iowa, West Bend Community School, Auditorium, West Bend, Iowa, October 25, 1979, 9:30 a.m.

Phillipsburg, Kansas, Majestic Theater, Phillipsburg, Kansas, October 29, 1979, 9:30 a.m.

Topeka, Kansas, Ramada Inn Downtown, 6th Street and I-70, Regency Foyer Room, Topeka, Kansas, October 29, 1979, 9:30 a.m. & 7:30 p.m.

Wichita, Kansas, Post Office & Court House, Room 408, 401 N. Market, Wichita, Kansas, November 1, 1979, 9:30 a.m. & 7:30 p.m.

Alexandria, Louisiana, City Council Chambers, City Hall, 1st Floor, 913 3rd Street, Alexandria, Louisiana, October 25, 1979, 9:30 a.m. & 7:30 p.m.

St. Paul, Minnesota, St. Paul Civic Center, I.A. O'Shaughnessy Plaza, Concourse Meeting Room C-15, St. Paul, Minnesota, October 22, 1979, 9:30 a.m. & 7:30 p.m.

Kansas City, Missouri, Holiday Inn, City Center, Topeka Room, 1301 Wyandotte Street, Kansas City, Missouri, October 22, 1979, 9:30 a.m. & 7:30 p.m.

Lincoln, Nebraska, City Council Chambers, County/City Building, 555 South 10th, Lincoln, Nebraska, October 25, 1979, 9:30 a.m. & 7:30 p.m.

Oklahoma City, Oklahoma, Alfred P. Murrah Bldg., Room 911, 200 N.W. 5th, Oklahoma City, Oklahoma, November 1, 1979, 9:30 a.m.

Amarillo, Texas, Amarillo Civic Center, Meeting Area South, 3rd & Buchanan, Amarillo, Texas, October 29, 1979, 9:30 a.m. & 7:30 p.m.

Dallas, Texas, Federal Office Building, 1100 Commerce Street, Room 5815, Dallas, Texas, October 29, 1979, 9:30 a.m. & 7:30 p.m.

Houston, Texas, Sheraton Hotel, Ballroom, 777 Polk Street, Houston, Texas, November 1, 1979, 9:30 a.m.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-31985 Filed 10-16-79; 8:45am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 202
Wednesday, October 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-252, Amdt. 3; Oct. 11, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 16, 1979, agenda.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Dockets 36442 and 36443—Application of Ozark Air Lines for restriction removal under Subpart Q in the Chicago-Madison market, and related exemption request. (Memo No. 9208, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Subpart Q application in Docket 36442 is required to be acted on by October 22, 1979. In order for the Board to act before this date, it is necessary for this item to be considered at the October 16, 1979 meeting. Accordingly, the following Members have voted that Item 2a be added to the October 16, 1979 agenda and that no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2031-79 Filed 10-15-79; 3:34 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 26, 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-2023-79 Filed 10-15-79; 10:32 am]

BILLING CODE 6351-01-M

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[Revised Agenda as of Oct. 12, 1979][1]

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: Commission Meeting, Wednesday, October 17, 1979, 9:30 a.m.

LOCATION: Third Floor Hearing Room, and Eighth Floor Conference Room, 1111-18th St., NW., Washington, DC.

STATUE: Part Open, Part Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public

1. Data Collection Options

The Commission will decide on two matters related to collection of hazard data: an interagency with the U.S. Fire Administration, and the Medical Examiners and Coroners Alert Program (MECAP). The Commission and staff previously discussed this matter on August 29 and on September 13.

B. Closed to the Public

2. Lead in Paint: Children's Clothing

The Commission and staff will discuss issues related to litigation concerning the regulation of lead-containing paint. (Closed under exemption 10: litigation.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111-18th St., NW., Washington, DC 20207, Telephone: (202) 634-7700.

[S-2024-79 Filed 10-15-79; 11:41 am]

BILLING CODE 6355-01-M

[1] Agenda revised October 12 to amend the description of Item 1. Agenda previously revised October 9 to add Item 2. Agenda originally approved October 5.

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CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: Commission Meeting, Wednesday, October 24, 1979, 9:30 a.m.

LOCATION: Third Floor Hearing Room, 1111-18th St., NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Environmental Review: Draft Proposed Procedures

The Commission will consider a draft document to propose procedures to implement regulations issued by the Council on Environmental Quality concerning agency compliance with the National Environmental Policy Act.

2. Asbestos in Hair Dryers: 26 Corrective Action Plans: Status Report

Staff from the Product Defect Correction Division of Compliance and Enforcement has recommended that the Commission accept corrective action plans proposed by 26 firms that manufactured, imported or distributed hand-held hair dryers contain asbestos. The staff will also present a status report on its monitoring or previously-accepted corrective action plans.

Agenda approved October 12, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111-18th St., NW., Washington, DC 20207, Telephone: (202) 634-7700.

[S-2025-79 Filed 10-15-79; 11:41 am]

BILLING CODE 6355-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, October 22, 1979, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of Northwestern National Bank of Sioux Falls,

Sioux Falls, South Dakota, and Springfield State Bank, Springfield, South Dakota.

Request by the Board of Governors of the Federal Reserve System for a report on the competitive factors involved in the proposed merger of United California Bank, Los Angeles, California, and Gavilan Bank, Gilroy, California.

Memorandum and Resolution proposing the publication for comment of an amendment to the Corporation's regulations governing disclosure of information (12 CFR Part 309) regarding Annual Trust Department Reports of Assets.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assests pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2026–79 Filed 10–15–79; 1:03 pm]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, October 22, 1979, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Peoples Bank and Trust Company of Pointe Coupee Parish, Louisiana, at proposed new bank, to be located at the intersection of Hospital Road and Ewing Drive, New Roads, Pointe Coupee Parish, Louisiana, for Federal deposit insurance.

American Bank of Commerce, a proposed new bank, to be located at 500 East Charleston Boulevard, Las Vegas, Nevada, for Federal deposit insurance.

Colonial Mutual Savings Bank, Philadelphia, Pennsylvania, a proposed new bank, for Federal deposit insurance coincident with conversion of a savings and loan association into a mutual savings bank.

Applications for consent to establish a branch:

Lloyds Bank California, Los Angeles, California, for consent to establish a branch at the northwest corner of Almaden Boulevard and Santa Clara Street, San Jose, California.

Citizens State Bank of New Jersey, Lacey Township (P.O. Forked River), New Jersey, for consent to establish a branch at the intersection of Route 9 and Beach Boulevard, Lacey Township (P.O. Forked River), New Jersey.

The Western New York Savings Bank, Buffalo, New York, for consent to establish a branch at 807 Elmwood Avenue, Buffalo, New York.

Banco de Ponce, Ponce, Puerto Rico, for consent to establish a branch at Trujillo Alto Avenue (Route 181), Km 3.5, Las Cuevas Ward, Trujillo Alto, Puerto Rico.

Application for consent to add a subordinated capital note to the bank's capital structure and for advance consent to the retirement thereof:

Citizens State Bank of New Jersey, Lacey Township (P.O. Forked River), New Jersey.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,070–L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 44,083–NR—United States National Bank, San Diego, California.

Case No. 44,084–L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 44,088–L—American Bank & Trust, Orangeburg, South Carolina.

Case No. 44,089–L—American Bank & Trust, Orangeburg, South Carolina.

Application for consent to merge, to establish branches, and to redesignate the main office location:

American Beach Boulevard Bank, Jacksonville, Florida, an insured State nonmember bank, for consent to merge with American Arlington Bank, Jacksonville, Florida, an insured State nonmember bank, and American Mandarin Bank, Jacksonville, Florida, an insured State nonmember bank, under the charter of American Beach Boulevard Bank and with the title American Bank, for consent to establish the sole office of each of the two banks being acquired as branches of the resultant bank, and for consent to redesignate the main office location of the resultant bank to be the present site of American Mandarin Bank.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2027–79 Filed 10–15–79; 1:03 pm]

BILLING CODE 6714–01–M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: October 22, 1979, 9:30 a.m.

PLACE: Hearing Room One—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Special Docket No. 666: Application of Sea-Land Service, Inc. for the Benefit of New Era Shipping as Agent for Central National Corporation—Review of Initial Decision.

2. Docket No. 78–46—Proposed rules establishing substantive guidelines applicable to NVOCC's operating in the domestic offshore trades.

3. Docket No. 79–85: Trailer Marine Transport Corporation—Proposed Reduced Rates on Sugar Cane & Refined Sugar N.O.S.—Appeal of denial of motion to discontinue.

4. Agreement No. LM–27–A: Assessment agreement of the Tampa Maritime Association.

Portion Closed to the Public

1. Docket No. 78–28: International Trade & Development, Inc. and Robert H. Wall, Inc. v. Sentinel Line and Anchor Shipping Corporation—Review of Initial Decision.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–2030–79 Filed 10–15–79; 8:45 am]

BILLING CODE 6730–01–M

8

October 11, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., October 16, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: This meeting may be closed.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following:

1. Davis Coal Company, HOPE 79–195–P, 79–233–P, 79–234–P and WEVA 79–25 (Consideration of direction for review)
2. Hyannis Sand and Gravel, Inc., YORK 79–59–M (Consideration of direction for review)
3. King Coal Company, KENT 79–196, 79–197, (Consideration of direction for review)
4. Helen Mining Company, PITT 79–11–P
5. Kentland-Elkhorn Coal Corporation, PIKE 78–399.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–2029–79 Filed 10–15–79; 2:41 pm]

BILLING CODE 6820–12–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 3:30 p.m., Monday, October 15, 1979. [NM–79–38]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed under Exemption 9B of the Government in the Sunshine Act. (A majority of the Board has voted that this meeting may be closed and that no earlier notice was possible.)

MATTER TO BE CONSIDERED: *Discussion* of Board strategy for proposed investigation and hearing on commuter aviation safety.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

October 15, 1979.

[S–2032–79 Filed 10–15–79; 3:36 pm]

BILLING CODE 4910–58–M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of October 15, 1979 (Changes).

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, DC.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Monday, October 15, 11 a.m.

Discussion of Personnel Matter (approximately 1½ hours, closed—Ex. 6, Continued from 10/11)—Additional Item.

Monday, October 15, 1:30 p.m.

1. Briefing on Siting Policy Task Force Report (approximately 1½ hours, public meeting)—As Scheduled.
2. Discussion of Improving Commission Procedures and Full Access Provision (approximately 1½ hours public meeting)—As Scheduled.

Tuesday, October 16, 9:30 a.m.

1. Briefing on TMI Lessons Learned Task Force Report (approximately 2 hours, public meeting)—As Schedule.
2. Affirmation Session (approximately 5 minutes, public meeting): a. ALAB–531, Portland General Electric, Trojan, rescheduled from 10/10)—Additional Item.

Tuesday, October 16, 1:30 p.m.

1. Briefing on Revision to the Operating Assumption covering the Relative Ease of Fabricating Clandestine Fission Explosives (approximately 1½ hours, closed—Ex. 1)—As Scheduled.
2. Discussion of Commission's Decision-Making Role in Emergency Response (rescheduled from 10/11, approximately 1½ hours, public meeting)—Additional Item.

Friday, October 19, 2 p.m.

Briefing on 10 CFR Part 21, Analysis of Comment Letters (approximately 1 hours, public meeting)—Tentative.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202–634–1410.

Walter Magee,

Office of the Secretary.

October 11, 1979.

[S–2028–79 Filed 10–15–79; 8:45 am]

BILLING CODE 7590–01–M

federal register

Wednesday
October 17, 1979

Part II

Health, Education, and Welfare Department

Office of Education

Career Education Incentive Programs

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 161 and 161a

Career Education Incentive Programs

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: The Commissioner of Education issues final regulations to govern the Career Education Incentive Program authorized under the Career Education Incentive Act.

The Act authorizes four new programs of financial assistance to enable public and private agencies and organizations to make career education a major goal of education by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. These regulations will be transmitted to Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if Congress disapproves the provisions of these regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Sidney C. High, Jr. U.S. Office of Education, 7th & D Streets, S.W., Room 3108–A, Washington, D.C. 20202. Telephone: (202)245–2331.

SUPPPLEMENTARY INFORMATION: The Commissioner of Education published in the **Federal Register** on December 18, 1978 (43 FR 58912) a Notice of Proposed Rulemaking. On December 29, 1978, January 6, 1979, and January 12, 1979 the Commissioner held public meetings on the proposed regulations in St. Louis, Missouri; Phoenix, Arizona; and Washington, D.C. respectively. Interested persons were afforded forty-five days to comment on these proposed regulations. During the forty-five day comment period ninety-three persons submitted written comments and sixty-seven made statements or posed questions at the three public meetings. The paragraphs that follow summarize those comments and the Commissioner's responses to them.

PART 161—STATE ALLOTMENT PROGRAM

§ *161.2 Purposes.*

Comment. A person commented that the phrase "in making career choices" should be included after "opportunities" in § 161.2(b).

Response. The Commissioner agrees. Section 161.2(b) has been changed accordingly.

§ *161.2(c) Purposes.*

Comment. Another person indicated that the phrase "work to eliminate" be used instead of "eliminate".

Response. No change has been made. The language used reflects the purposes described in Section 3 of the Act, as well as the definitions for career education in section 15(a) and (b) of the Act.

§ *161.3 Definitions.*

Comment. Several other persons suggested that the terms "career education" and "handicapped" be defined.

Response. No change has been made. Those terms are defined in section 15 of the Act and are not repeated in these regulations.

Comment. A person commented that the definition for discrimination should say that it is an illegal action.

Response. No change has been made. Any State and its subgrantees that receive Federal assistance from this Department, must comply with the following statutes and regulations regarding nondiscrimination. These statutes prohibit, in any Federally-assisted activity, discrimination based on 1) race, color, or national origin—Title VI of the Civil Rights Act of 1964, (42 CFR Part 80); 2) sex—Title IX of the Education Amendments of 1972 (45 CFR Part 86); 3) handicap—section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84); and 4) age—The Age Discrimination Act of 1975 (45 CFR Part 90 "general government-wide age discrimination regulations"). Whether an action constitutes discrimination; is governed by these authorities. Procedures and requirements for determining the legality of any action are contained in those authorities. The regulations in Part 161 and 161a do not cover this determination. Therefore, the definition of discrimination has not been changed to include the term "illegal".

§ *161.14(a) Allotments for Fiscal Years 1980–81.*

Comment. Several persons commented that the Commissioner should recommend goals and steps to assist States to meet the State plan requirements of Section 7 of the Act.

Response. No change has been made. Each State or Insular Area can best develop a plan to fit its own situation. In doing this it must determine its own needs and establish objectives, policies, and procedures to respond to those needs. This assures maximum State initiative without Federal interference in the State and local school systems.

§ *161.21 Use of funds.*

Comment. A person suggested that a State that receives a minimum allotment of funds under section 5 of the Act should be allowed to exceed the 10 percent limit on the amount of the State allotment funds that can be used for hiring State educational agency personnel.

Response. No change has been made. This limitation is prescribed in section 9(b) of the Act. No exception is made for a State that receives a minimum allotment.

§ *161.31 Applications and review.*

Comment. Several persons commented that the regulations should require States to review applications from local educational agencies for compliance with provisions for equal access to career education projects for all students through the elimination of bias, stereotyping and discrimination.

Response. No change has been made. The Act does not set criteria for the review by States of local applications. These criteria are to be established by the States. One of the purposes of the Career Education Program is to provide equal access of all students to career education projects through the elimination of bias, stereotyping, and discrimination. All activities carried out under the program must contain this element. The State in administering the program, must insure this purpose is carried out in the local projects for which it is responsible.

Comment. A person suggested that the regulations require linkages between career education projects and Comprehensive Employment and Training Act (CETA) projects.

Response. No change has been made. Section 161.31(b) requires only that each State establish criteria for making payments to local educational agencies. A State may include provisions for linkages with CETA projects if it feels that these linkages are appropriate.

§ *161.54 Reports.*

Comment. A person suggested that reports describe the linkages between career education projects and CETA projects.

Response. No change has been made. Although these linkages may be

desirable for some projects, they are not required under the Act.

Other comments.

Comment. A person suggested that the regulations should include provisions to enable handicapped students and gifted and talented students to participate in career education.

Response. No change has been made. Section 7(3) of the Act requires a State to provide in its State plan, equal access for all students to career education programs. Handicapped students are specifically included under the language of that section. Gifted and talented students, though not singled out under the law as a group, would be afforded equal access as individuals with other students under the statutory term "all students."

Comment. One person suggested that the Commissioner should recommend procedures that a State should use to "assure access for all students in local projects".

Response. No change has been made. Under section 7 of the Act, each State or Insular Area develops its procedures to assure equal access of all students. Each State or Insular Area that receives an allotment of funds must submit an annual report. This contains an analysis of the extent to which it has met its objectives, policies, and procedures for overcoming bias, discrimination, and stereotyping, as well as for assuring equal access for all students to projects assisted under this program. After a review of this report the Commissioner makes recommendations to the State for improvement. Section 9(a) authorizes the Commissioner to reduce a State's allotment to the extent it fails to meet these objectives.

Comment. One person commented that the Commissioner should require States to describe how the needs of handicapped students will be met.

Response. No change has been made. The regulations in § 161.14(a) require each State and Insular Areas to submit a plan that contains the information required in Section 7 of the Act. This information includes "policies and procedures which the State will follow to assure equal access of all students (including the handicapped . . .) to career education programs . . ."

Comment. One person suggested that 15 percent of the funds distributed to local schools should be allocated for handicapped students. The same person suggested that 5 percent of this amount allocated for handicapped students should go to State institutions for the handicapped.

Response. No change has been made. Section 6(9) of the Act sets certain restrictions on the local distribution of funds by the State. Thus a State cannot allocate funds among LEAs on a per capita enrollment basis or through matching of local expenditures on a uniform basis. Beyond these restrictions a State distributes the funds as it sees fit, consistent with the intent of the Act. A State cannot be required to reserve a portion of the local funds for handicapped students. This type of provision, however, would not be inconsistent with the Act if a State wanted to use a certain portion of the funds for these students.

Comment. A person expressed concern that the person designated as State Vocational Education Sex Equity Coordinator might not be used to satisfy the staffing requirements of section 6(6) of the Act.

Response. Any State that receives more than the minimum allotment of $125,000 must meet these staffing requirements. It is up to the State to determine the person best qualified to deal with problems of discrimination and stereotyping. Although many of the activities conducted by the State Vocational Education Sex Equity Coordinator could be coordinated with those provided under the State Allotment Program, the specific responsibilities of the sex equity coordinator are mandated by the Vocational Education Act. Thus, a State cannot delegate the responsibilities under section 6(6) to the sex equity coordinator.

Comment. Several people suggested content changes in the assurances in Appendix A.

Response. The only changes that have been made with respect to the assurances are for clarity or organization. Section 6 of the Act specifies certain assurances that a State must make before it can receive funds under the State allotment program. The assurances in Appendix A reflect these statutory requirements.

PART 161a—DISCRETIONARY PROGRAMS

§§ *161a.12 and 161a.22 Eligible applicants.*

Comment. Several persons raised questions about those eligible to apply for assistance under the Model Program and the Postsecondary Career Education Demonstration Program. Some persons suggested that participants in model projects under section 10 of the Act be students at the postsecondary level. Others suggested that participants in postsecondary projects under section 11 of the Act be high school students.

Response. No change has been made. The eligible applicants specified in §§ 161a.12 and 161a.22 of the regulations reflect the provisions of sections 10 and 11 of the Act respectively.

These regulations reflect Congressional intent to establish two separate discretionary programs that address the needs of students at elementary and secondary levels and at the postsecondary level.

§ *161a.21 Purpose.*

Comment. Several persons made suggestions regarding specific groups to whom the postsecondary demonstration projects should be targeted.

Response. No change has been made. The applicant is responsible for selecting the population to be served that will best carry out one or more of the purposes described in § 161a.21(a). Although the projects must focus on the postsecondary level, there are no further requirements with respect to specific groups that must be served.

Comment. A number of persons raised questions and made suggestions about specific types of projects that could be supported under the Postsecondary Career Education Demonstration Program. Some asked if the Commissioner would fund projects that addressed any purpose specified in § 161a.21(a) through staff development. Others thought that internal collaboration among various departments within their respective institutions was an appropriate response to their needs. Some thought that a project involving collaboration among postsecondary institutions—as well as with business, labor, and community organizations—should be allowed. Some said that projects should focus on the transition of persons from work to school, as well as from school to work. Several thought that a comprehensive approach should be specified in the regulations.

Response. No change has been made. Any eligible applicant that addresses the general purposes in § 161a.21 will be reviewed according to the criteria contained in § 161a.41. The applicant's approach could focus on staff development, internal or external collaboration, communication, or transition, or it could be a comprehensive approach. The key issue is the extent to which the applicant addresses the purposes in § 161a.21. This enables the applicant to determine the approach that best suits its needs.

Comment. Several persons commented that the term "postsecondary education program" in § 161a.21(a)(1) might be construed to mean programs designed to train educational personnel. They suggested substituting the word "educational" for "education".

Response. The Commissioner agrees that this usage might be confusing. However, to call the program in § 161a.21(a)(1) an educational program might imply that the guidance programs in § 161a.21 (2) and (3) are not considered educational programs. Consequently, to avoid any confusion, and make clear that the purpose in § 161a.21(a)(1) is not limited to promoting career education in educational personnel training programs, § 161a.21(a)(1) has been changed to read "postsecondary intructional programs". This insures that a broad range of postsecondary level programs will be affected by career education.

Comment. A number of persons recommended that the Commissioner give priority to certain purposes under the postsecondary demonstration program. One person recommended that 85 percent of the postsecondary funds be reserved for guidance. Several others thought that college placement should be emphasized.

Response. No change has been made. The Act does not set specific percentages of funds for certain types of activities for any of the discretionary programs. However, in order to meet unexpected needs that might arise in a particular year, a new § 161a.4 *Emphasis among project purposes* has been added. This section provides that the Commissioner may, in any given year, emphasize one or more of the discretionary project purposes in § 161a.11 (Model projects), § 161a.21 (Postsecondary projects), and § 161a.31 (Career education information program). This is announced in the **Federal Register.**

§ *161a.22 Eligible applicants.*

Comment. One person asked if a Territorial agency was an eligible applicant under the Postsecondary Career Education Demonstration Program. Another asked if postsecondary associations were eligible.

Response. A territorial or Insular Area agency is a public agency and is therefore eligible to apply for assistance under the postsecondary program. If an association is a public or nonprofit private organization, it is eligible for a grant under this program.

A profit-making private organization may bid only for a procurement contract under this program.

§ *161a.41 Application review criteria.*

Comment. A number of persons commented that too little emphasis had been placed on the elimination of bias, discrimination, and stereotyping based on sex and handicap. Others felt that too much emphasis has been placed on the elimination of bias, discrimination, and stereotyping in general. Some commented that the emphasis placed on equity issues reduced the consideration given to other criteria.

Response. No change has been made. In keeping with the purpose stated in section 3 of the Act, each career education project must promote equal opportunity in making career choices. It must promote this through the elimination of bias, discrimination, and stereotyping in career awareness, exploration, decisionmaking, and planning. The Act does not differentiate between the specific bases for bias and stereotyping. It does not emphasize one basis over another. This is maintained in these regulations.

Because of the importance of this requirement in the concept of career education, it is necessary to assure that a project that fails to respond to these requirements is not funded. Therefore, the Commissioner has established a minimum required point score with respect to the elimination of stereotyping, bias, and discrimination in career education activities. This means that regardless of an applicant's score on all criteria, if it did not achieve at least 7 points under this criterion it would not be funded.

Comment. A number of people made suggestions regarding the content and strategies for requests for proposals under both the Postsecondary Career Education Demonstration Program and the Career Education Information Program.

Response. No change has been made. These regulations do not govern procurement contracts. Contracts are subject to applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3 and requirements and criteria in particular requests for proposals. Those suggestions will be considered in developing the requests for proposals.

These final regulations contain minor editorial and organizational changes to conform to the Education Division General Administrative Regulations (EDGAR). Section 161a.41 has been reorganized to include general criteria required of all Education Division Programs under EDGAR.

These proposed regulations are issued under the authority of the Career Education Incentive Act, Pub. L. 95–207.

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

Approved: October 4, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Nos. 13.596, Career Education State Allotment Program and 13.554, Career Education Discretionary Programs.)

Having considered all comments, the Commissioner is amending the Parts 161 and 161a of Title 45 of the Code of Federal Regulations to read as follows:

PART 161—CAREER EDUCATION, STATE ALLOTMENT PROGRAM

General

Sec.
161.1 Scope.
161.2 Purposes.
161.3 Definitions.
161.4 Regulations applicable to the State allotment program.
161.5–10 [Reserved]

Allotments

161.11 Eligible applicants.
161.12 Allotments.
161.13 Allotments for Fiscal Year 1979.
161.14 Allotments for Fiscal Years 1980–81.
161.15 Allotments for Fiscal Years 1982–83.
161.16–20 [Reserved]

Use of Funds

161.21 Use of funds.
161.22–30 [Reserved]

Local Educational Agencies

161.31 Applications and review.
161.32 Use of funds.
161.33–40 [Reserved]

Private Schools

161.41 Private school participation.
161.42–50 [Reserved]

Maintenance of Effort and Cost Sharing

161.51 Maintenance of effort.
161.52 Federal share of expenditures for employing State personnel.
161.53 Federal share of expenditures for State leadership and local implementation.
161.54 Reports.

Appendix: Assurances.

Authority.—Secs. 2–16, Pub. L. 95–207, 91 Stat. 1464–1474 (20 U.S.C. 2601–2614, 2502), unless otherwise noted.

General

§ 161.1 Scope.

Part 161 contains regulations for the State allotment program of the Career Education Incentive Act (Pub. L. 95–207).

(Secs. 1–9, 13–16, 20 U.S.C. 2601–2608, 2612–2614, 2502)

§ 161.2 Purposes.

(a) Recipients of funds under this part shall make career education a major goal in education by increasing the

emphasis they place on career awareness, exploration, decision making, and planning.

(b) Recipients shall conduct activities in a manner that promotes equal opportunities in making career choices for students engaging in the activities and programs assisted under the Act.

(c) Recipients shall eliminate practices that promote bias and stereotyping based on race, sex, age, economic status, national origin and handicap.

(Sec. 3, U.S.C. 2602)

§ 161.3 Definitions.

(a) *Definitions in EDGAR.*

The following terms used in this part are defined in Part 100c of The Education Division General Administratve Regulations:

"Applicant"	"Private"
"Applications"	"Program"
"EDGAR"	"Project"
"Grant"	"Public agency"
"Nonprofit"	

(b) The following definitions apply to these regulations:

"Act" means the Career Education Incentive Act, Pub. L. 95–207.

(20 U.S.C. 2601–2614, 2502)

"Bias" means behavior resulting from the assumption that one person or group of persons is superior or inferior to another person or group of persons on the basis of sex, race, age, economic status, national origin, or handicap.

"Discrimination" means any action that limits or denies a person or group of persons opportunities, privileges, roles, or rewards on the basis of race, sex, age, national origin, or handicap.

(Sec. 15, 20 U.S.C. 2614)

"Insular Areas" means the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(48 U.S.C. 1469a)

"Plan" means the State plan required under Sec. 7 of the Act.

"Recipient" means a State or Insular Area that receives an allotment under this Part.

"State" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Stereotyping" means attributing behavior, abilities, interests, values, and roles to a person or group of persons on the basis of sex, race, age, economic status, national origin, and handicap.

In addition, the definitions in Sec. 15 of the Act apply to this part.

(Sec. 15, 20 U.S.C. 2614)

§ 161.4 Regulations applicable to the State allotment program.

Programs and projects under this Part are subject to the applicable provisions of:

(a) The Education Division General Administrative Regulations (EDGAR), part 100b (State administered programs) and part 100c (Definitions) published as a notice of proposed rulemaking on May 4, 1979 in the **Federal Register**; and

(b) The regulations in this part.

(20 U.S.C. 2301 *et seq.*)

ALLOTMENTS

§ 161.11 Eligible applicants.

Any State or Insular Area may apply for an allotment of funds under this part.

(Sec. 5, 20 U.S.C. 2604)

§ 161.12 Allotments.

(a) The Commissioner determines each State's allotment of funds for career education according to the formula in Sec. 5 of the Act.

(b) No State will be allotted less than $125,000 for a fiscal year.

(Sec. 5(a)(1), 20 U.S.C. 2604)

(c) The Commissioner may reserve an amount, in accordance with Sec. 5 of the Act, for payments to the Insular Areas.

(Sec. 5(a)(2)(D), 20 U.S.C. 2604)

§ 161.13 Allotments for Fiscal Year 1979.

(a) A State applying for an allotment of funds for Fiscal Year 1979 must file an application that contains the assurances listed in the Appendix to these regulations.

(Sec. 6, 20 U.S.C. 2605)

(b) An Insular Area applying for an allotment of funds for Fiscal Year 1979 must file assurances in the same manner as a State.

(Implements Sec. 5(a)(2)(D), 20 U.S.C. 2606)

§ 161.14 Allotments for Fiscal Years 1980–81.

(a) A State applying for an allotment for each of the Fiscal Years 1980 and 1981 must submit a plan to the Commissioner by July 1, 1979. In the plan the State must:

(1) Provide the information specified in Sec. 7 of the Act;

(2) Describe the methods it plans to use to evaluate the extent to which it has:

(i) Achieved its objectives for State leadership and local implementation of career education; and

(ii) Eliminated discrimination, bias, and stereotyping in career education activities; and

(3) Describe the methods it plans to use to evaluate the overall effectiveness of State leadership and coordination and of local implementation.

(b) An Insular Area applying for an allotment for each of the Fiscal Years 1980 and 1981 must file a plan in the same manner as a State. The plan must contain the information required in § 161.14(a).

(Implements Sec. 7, 20 U.S.C. 2606)

(c) The Commissioner pays each State or Insular Area its allotment of funds for each of these fiscal years, provided the State or Insular Area has filed the assurances in accordance with § 161.13 and is in compliance with Secs. 6, 7, and 8 of the Act for Fiscal Years 1980 and 1981.

(Sec. 9(a)(1), 20 U.S.C. 2608)

§ 161.15 Allotments for Fiscal Years 1982–83.

(a) The Commissioner pays the State or Insular Area its allotment of funds for each Fiscal Year 1982 and 1983 provided the State or Insular Area is in compliance with Secs. 7 and 8 of the Act, for Fiscal Years 1980 and 1981.

(b) The Commissioner reduces the recipient's allotment in proportion to the extent the Commissioner determines the recipient has failed to meet the objectives in its plan.

(Implements Secs. 7, 9(a)(2), 20 U.S.C. 2606, 2608)

Use of Funds

§ 161.21 Use of funds.

(a) No State may reserve more than 10 percent of its funds received under this part for providing State leadership activities listed in Sec. 8(a)(2) of the Act, either directly or through arrangements with public agencies and private organizations, including institutions of higher education.

(Secs. 8(a)(2), 9(b)(1), 20 U.S.C. 2607, 2608)

(b) No State may reserve more than 10 percent of its funds received under this part for Fiscal Year 1979 and 5 percent of its funds in Fiscal Years 1980, 1981, 1982, and 1983 for—

(1) Employing additional State educational agency (SEA) personnel as required for administration and coordination of programs assisted under the Act; and

(2) Reviewing and revising the State plan.

(Secs. 8(a) (1) and (4), 9(b)(2), 20 U.S.C. 2607, 2608)

(c) The remainder of these funds—the funds not reserved as described in paragraphs (a) and (b) above—must be distributed by the State to local educational agencies (LEAs) for comprehensive career education

programs described in Sec. 8(a)(3) of the Act.

(Sec. 9(b), 20 U.S.C. 2608)

(d) At least 15 percent of the funds distributed to LEAs, as described in paragraph (c) above, must be used for programs to develop and implement comprehensive career guidance, counseling, placement, and follow-up services using counselors, teachers, parents, and community resource personnel. For example, the State's allotment is $1,000,000 and the total amount distributed to the LEAs in the State is $850,000. At least 15 percent of this amount, or $127,500, must be used for these purposes. Each LEA does not have to use 15 percent of the funds it receives for these purposes. Some may use more. Some may use less, but the average amount spent by all the LEAs for these purposes must be at least 15 percent of the total LEAs' distribution, or $127,500.

(Secs. 6(10), 9(b), 20 U.S.C. 2605, 2608)

Local Educational Agencies

§ 161.31 Applications and review.

(a) To obtain funds for comprehensive career education programs, a local educational agency (LEA) must apply to its State educational agency (SEA).

Sec. 8(a)(3), (b), 20 U.S.C. 2607)

(b) Each SEA shall review applications and may make payments to LEAs, on an equitable basis to the extent practicable, on the basis of criteria established by the SEA and criteria in Sec. 8(b) of the Act.

(Sec. 8(b), 20 U.S.C. 2607)

§ 161.32 Use of funds.

LEAs may use funds for any of the purposes specified in Sec. 8(a)(3) of the Act.

(Sec. 8(a)(3), 20 U.S.C. 2607)

Private Schools

§ 161.41 Private school participation.

(a) Unless a State is prohibited by law from providing services to students and teachers in nonprofit private schools, the State must make provisions for the effective participation on an equitable basis of these students and teachers in programs assisted under this part. Services for students in private nonprofit schools shall be provided in accordance with 45 CFR Part 100b.650 through 100b.663 (EDGAR).

(Secs. 8(c)(1), 9(d)(1), 20 U.S.C. 2607, 2608)

(b) In States that are prohibited by law from providing for participation of students in private non-profit schools in programs under this part or if the State or LEA has substantially failed to provide for participation of these students on an equitable basis, the Commissioner arranges for provision of services to these students in accordance with Sec. 9(d) of the Act.

(Secs. 8(c)(1), 9(d) (1) and (2), 20 U.S.C. 2607, 2608)

(c) Services to students and teachers in nonprofit private schools shall be provided by employees of a public agency or through a contract between the public agency and a person, association, private agency, or corporation, each of which must be independent of any private school or of any religious organization. The employment or contract must be under the control or supervision of a public agency.

(Secs. 8(c)(1), 9(d)(1), 20 U.S.C. 2607, 2608)

(d) No funds to accommodate students and teachers in private schools shall be commingled with State or local funds.

(Sec. 8(c)(2)(B), 20 U.S.C. 2607)

Maintenance of Effort and Cost Sharing

§ 161.51 Maintenance of effort.

A State shall expend from its own sources an amount that is equal to or greater than the amount the State expended for career education in the immediately preceding fiscal year.

(Sec. 6(3)(A), 20 U.S.C. 2605)

§ 161.52 Federal share of expenditures for employing State personnel.

The Federal share of the cost of employing State personnel under Sec. 8(a)(1) of the Act (subject to the limitation in § 161.21) shall not exceed:

(a) 100 percent in Fiscal Year 1979;

(b) 75 percent in Fiscal Year 1980; and

(c) 50 percent in Fiscal Years 1981, 1982, and 1983.

(Sec. 9(c)(1), 20 U.S.C. 2608)

§ 161.53 Federal share of expenditures for State leadership and local implementation.

The Federal share of the cost of providing State leadership for career education and making payments for local implementation (subject to the limitation in § 161.21) shall not exceed:

(a) 100 percent in Fiscal Years 1979 and 1980;

(b) 75 percent in Fiscal Year 1981;

(c) 50 percent in Fiscal Year 1982; and

(d) 25 percent in Fiscal Year 1983.

(Sec. 9(c)(2), 20 U.S.C. 2608)

§ 161.54 Reports.

Each grantee shall submit to the Commissioner, on or before December 31, of each year (except the first year of operation under this program), a report that contains:

(1) An analysis of the extent to which each objective in the State plan has been achieved;

(2) A description of the extent to which SEAs and LEAs are using State and local resources to achieve these objectives and a description of the extent to which funds received under this Act have been used to achieve these objectives; and

(3) A description of each career education project funded within the State, including an analysis of the reasons for its successes of failures.

(Sec. 14, 20 U.S.C. 2613)

Appendix—Assurances

A State or Insular Area shall assure the Commissioner that it will conduct the State allotment program in Part 161 in accordance with the following provisions. Those provisions preceded by an asterisk do not apply to the Insular Areas.

1. The State has notified the legislature and the Chief Executive that it is applying for an allotment of funds under Part 161.

(Sec. 6(2), 20 U.S.C. 2605)

2. The State educational agency (SEA) will plan for the use of funds and will administer the expenditure of funds received under Part 161.

(Sec. 6(1), 20 U.S.C. 2605)

3. The State will make every possible effort to integrate career education into the regular educational programs offered in elementary and secondary schools.

(Sec. 6(4), 20 U.S.C. 2605)

4. The SEA will require that career education programs assisted under the State allotment program be administered by SEAs and local educational agencies (LEAs) in a way that affects all elementary and secondary school instructional programs and not solely as a part of the vocational education program.

(Sec. 6(5), 20 U.S.C. 2605)

5. The SEA will designate a person with prior experience in career education to coordinate the programs assisted under the State allotment program.

(Sec. 6(5), 20 U.S.C. 2605)

State leadership activities

6. The State will reserve not more than ten percent of its allotment for Fiscal Years 1979, 1980, 1981, 1982, and 1983 for the following State leadership activities:

(a) Conducting in-service institutes for educational personnel;

(b) Training local career education coordinators;

(c) Collecting, evaluating, and disseminating career education materials with special emphasis on overcoming sex bias;

(d) Conducting Statewide needs assessment and evaluation studies;

(e) Conducting Statewide career education leadership conferences;

(f) Engaging in collaborative relationships with other agencies of State government and with public agencies and private

organizations representing business, labor, industry, and the professions and organizations of handicapped persons, minorities, women, low-income persons and the elderly; and

(g) Assisting institutions of higher education to adapt teacher-training curricula to the concept of career education.

(Sec. 6(11), 20 U.S.C. 2605)

7. The State will reserve not more than ten percent of its allotment for Fiscal Year 1979 and not more than five percent of its allotment for Fiscal Years 1980, 1981, 1982, and 1983 for:

(a) Employing additional personnel to administer and to coordinate programs described in Part 161; and

(b) Reviewing and revising the State plan.

*8. The SEA will employ the staff necessary to administer the State allotment program and the programs assisted under it, including but not limited to:

(a) A person or persons experienced in dealing with problems of discrimination in the labor market, and stereotyping in career education, including bias and stereotyping based on race, sex, age, national origin, economic status, and handicap;

(b) A professional trained in guidance and counseling who shall work jointly in the office of the principal staff person responsible for the administration of this program and in the office of the person responsible for guidance and counseling for the State, if the latter office exists.

Paragraph (8) does not apply if the State receives only the minimum allotment of funds for the fiscal year.

(Secs. 5(c), 6(6), 20 U.S.C. 2604, 2605)

Review and revision of State plans

9. The SEA will continuously review and revise the plan submitted under Part 161.

10. The SEA will report to the Commissioner any amendments to the plan.

(Sec. 6(7), 20 U.S.C. 2605)

Maintenance of effort and cost sharing

*11. The State will expend, from its own sources, an amount equal to or greater than the amount it expended for career education the immediately preceding fiscal year.

*12. The State will pay from non-Federal sources the non-Federal share of the costs of carrying out the plan for Fiscal Years 1980, 1981, 1982, and 1983.

(Sec. 6(3), 20 U.S.C. 2605)

State payments to local educational agencies

*13. If the State determines that the jurisdiction in which an LEA is located is making a reasonable tax effort, the State will not deny funds to the LEA solely because the agency is unable to pay the non-Federal share of cost of programs assisted under part 161.

*14. The State will not make payments to LEAs based on per capita enrollment or through matching of local expenditures on a uniform percentage basis.

(Sec. 6(9), 20 U.S.C. 2605)

*15. The State will make payments to LEAs, on an equitable basis to the extent practicable, on the basis of criteria established by the SEA and will consider the special needs of LEAs that serve areas with:

(a) High incidence and prevalence of youth and adult unemployment;

(b) Sparse population; or

(c) Relatively few students.

(Secs. 6(11), 8(b), 20 U.S.C. 2605, 2607)

Local implementation activities

16. The State will use at least 15 percent of funds reserved for payments to LEAs under Sec. 9(b) of the Act to enable local agencies to develop and implement comprehensive career guidance programs. These programs include career counseling, information, placement, and follow-up services using counselors, teachers, parents, and community resource persons.

17. The State will distribute the remainder of its allotment of funds—not reserved under Sec. 9(b) of the Act or as described in Assurance 16—to LEAs to enable them to conduct comprehensive programs, including:

(a) Incorporating career education concepts and approaches into the instructional program;

(b) Developing and implementing comprehensive career guidance counseling, placement, and follow-up services using counselors, teachers, parents, and community resource personnel;

(c) Developing and implementing collaborative relationships with business and community organizations, including those that are represented by handicapped persons, minority groups, women, older persons, low-income persons, and other members of the community, and using persons from these groups as resource persons in schools and for student field trips into the community;

(d) Providing students whose primary purpose is career exploration with non-discriminatory and non-stereotyped work experiences that relate to existing or potential career opportunities and with work experiences that do not cause students to displace other workers;

(e) Employing career education coordinators in LEAs or in combinations of these agencies (but not at the individual school building level);

(f) Training local career education coordinators;

(g) Providing in-service education for teachers, counselors, and school administrators to enable them to understand career education, the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, ways of helping men and women broaden their career horizons, and to develop competencies in the field of career education;

(i) Purchasing instructional materials and supplies for career education activities;

(j) Conducting institutes for members of boards of LEAs, community leaders, and parents about the nature and goals of career education;

(i) Establishing and operating community career education councils with appropriate representation of women, minorities, older persons, low-income persons, and handicapped persons;

(k) Establishing and operating career education resource centers to serve both students and the general public;

(l) Adopting, reviewing, and revising local plans for coordinating the implementation of the comprehensive program; and

(m) Conducting needs assessments and evaluations.

(Secs. 6(8), (11), 8(a)(3), 9(b), 20 U.S.C. 2605, 2607, 2608)

Services to students and teachers in nonprofit private schools

18. The State will consult with officials of private non-profit elementary and secondary schools. It will make provision for the effective participation, on an equitable basis, of students and teachers in programs and services assisted under part 161.

19. A public agency will control the funds provided under Part 161 and maintain title to and administer the use of the materials and equipment acquired with these funds.

20. A public agency will provide these services to students and teachers in nonprofit private schools directly using agency employees, or through a contract.

21. The public agency will not award a contract for the provisions of these services to a person, association, private agency, or corporation that is not independent of any private school or religious organization.

22. The State will not commingle with State or local funds those funds received under part 161 to accommodate students and teachers in private, non-profit schools.

(Secs. 6(11), 8(c), 20 U.S.C. 2605, 2607)

PART 161a—CAREER EDUCATION, DISCRETIONARY PROGRAMS

General

Sec.

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Model and Postsecondary Application Review Criteria

161a.41 Application review criteria.

Authority.—Secs. 2–16, Pub. L. 95–207, 91 Stat. 1464–1474 (20 U.S.C. 2601–2614, 2505), unless otherwise noted.

General

§ 161a.1 Scope.

Part 161a contains regulations for the discretionary model career education program, postsecondary career education demonstration program, and career education information program of the Career Education Incentive Act, Pub. L. 95–207.

(Secs. 10–12, 20 U.S.C. 2609–2611)

§ 161a.2 Definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in Part 100c of EDGAR:

"Applicant"	"Private"
"Applications"	"Program"
"EDGAR"	"Project"
"Grant"	"Public agency"
"Nonprofit"	"Secondary school"

(b) As used in these regulations—

"Act" means the "Career Education Incentive Act", Pub. L. 95–207, 20 U.S.C. 2601–2614, 2502.

"Bias" means behavior resulting from the assumption that one person or group of persons is superior or inferior to another person or group of persons on the basis of sex, race, age, national origin, economic status, or handicap.

"Discrimination" means any action that limits or denies a person or group of persons opportunities, privileges, roles, or rewards on the basis of race, sex, age, national origin, or handicap.

"Exemplary career education program" means a career education program that has achieved the standard of performance prescribed by the Joint Dissemination Review Panel of the Education Division of the Department of Health, Education, and Welfare.

"Stereotyping" means attributing behavior, abilities, interests, values, and roles to a person or group of persons on the basis of sex, race, age, national origin, economic status or handicap.

In addition, the definitions in Sec. 15 of the Act apply to this Part.

(Sec. 15, 20 U.S.C. 2614)

§ 161a.3 Other regulations applicable to the career education discretionary programs.

(a) Programs or projects under this Part are subject to the applicable provisions in:

(1) The Education Division General Administrative Regulations (EDGAR), part 100a (Direct Grant Programs) and part 100c (Definitions); and

(2) The regulations in this part.

(20 U.S.C. 2301 *et seq.*)

(b)(1) If the Commissioner arranges for the conduct of model programs under Sec. 10 of the Act, postsecondary career education demonstration projects under Sec. 11 of the Act, or carries out the career education information program under Sec. 12 of the Act by contract, these contracts are subject to the applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3.

(2) If the Commissioner proceeds by grant, the applicable provisions of 45 CFR parts 100a and 100c apply.

(Secs. 10–12, 20 U.S.C. 2609–2611, 2301 *et seq.*)

§ 161a.4 Emphasis among project purposes.

The Commissioner, may, in any given year, support projects for one or more of the purposes in § 161a.11 (model projects), § 161a.21 (Postsecondary projects), and § 161a.31 (career education information program). This is announced in the **Federal Register.**

(Secs. 10, 11, 12; 20 U.S.C. 2601, 2610, 2611)

§ 161a.5 Project duration.

(a) Projects will be funded for one year.

(b) An applicant desiring funding for a project under this part more than one year must submit a new application each fiscal year.

(20 U.S.C. 1221e–3(a)(1), 2602)

Model Program

§ 161a.11 Purposes.

The Commissioner makes awards to eligible applicants to support projects at elementary and secondary levels that demonstrate effective techniques of—

(a) Eliminating or counteracting bias and stereotyping based on race, sex, age, national origin, economic status, and handicap as well as eliminating or counteracting discrimination in career awareness, exploration, decision making, and planning;

(b) Promoting and sustaining diverse community and parent collaboration in the delivery of career awareness, exploration, decision making, and planning; or

(c) Accommodating handicapped students in regular classrooms to enable them to engage effectively in career awareness, exploration, decision making, and planning.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.12 Eligible applicants.

(a) Those eligible to apply for grants for model career education projects are:

(1) State educational agencies (SEAs);

(2) Local educational agencies (LEAs);

(3) Institutions of postsecondary education; and

(4) Other non-profit agencies and organizations.

(b) New applicants, as well as those that have conducted projects of proven effectiveness may apply under this program.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.13 Criteria for review of applications.

The Commissioner uses the criteria in § 161a.41 to review applications for model project grants.

(Implements Sec. 10(a), 20 U.S.C. 2609)

Postsecondary Career Education Demonstration Program

§ 161a.21 Purposes.

(a) The Commissioner may conduct a postsecondary career education program that supports demonstration projects that:

(1) Promote career education in postsecondary instructional programs;

(2) Promote postsecondary career guidance and counseling programs designed to overcome bias and stereotyping based on race, sex, age, national origin, economic status, or handicap; or

(3) Strengthen career guidance, counseling, placement, and follow-up services.

(b) Each project assisted under Sec. 11 of the Act must be:

(1) Of national significance; or

(2) Of special value to others; and

(3) Free of bias, and stereotyping based on race, sex, age, economic status, and handicap, as well as discrimination.

(c) The Commissioner makes awards for postsecondary career education projects that foster communication, coordination and collaboration among—

(1) Similar projects at local, State, and Federal levels;

(2) Community and business organizations.

(Sec. 11(a) (1)–(3), 20 U.S.C. 2610)

§ 161a.22 Eligible applicants.

Those eligible to apply for awards are—

(a) Institutions of higher education;

(b) Public agencies; and

(c) Non-profit private organizations.

(Sec. 11(a), 20 U.S.C. 2610)

§ 161a.23 Criteria for review of applications.

(a) The Commissioner uses the criteria in § 161a.41 to review applications for grants.

(Implements Sec. 11, 20 U.S.C. 2610)

(b) The Commissioner does not approve an application unless—

(1) The applicant addresses at least one of the purposes specified in § 161a.21; and

(2) The applicant includes adequate provisions for evaluating overall project

effectiveness and the extent to which each objective is achieved.

(Sec. 11(b), 20 U.S.C. 2610)

Career Education Information Program

§ 161a.31 Purpose.

The Commissioner provides information to projects assisted under this Act and to the general public about—

(a) Federal programs that gather, analyze, and disseminate occupational and career information; and

(b) Exemplary career education programs, including programs assisted under this Act.

(Sec. 12, 20 U.S.C. 2611)

§ 161a.32 Eligible applicants.

Public and private agencies and organizations are eligible to apply for contract awards to carry out the career education information program.

(Sec. 12, 20 U.S.C. 2611)

§ 161a.33 Application information.

Applicants must apply in accordance with the application contents and application review criteria to be announced each fiscal year in the *Commerce Business Daily*.

(Implements Sec. 12, 20 U.S.C. 2611)

Model and Postsecondary Application Review Criteria

§ 161a.41 Application review criteria.

(a) The Commissioner evaluates an application for a grant under the Model Program (§ 161a.13) and the Postsecondary Career Education Demonstration Program (§ 161a.23) on the basis of the selection criteria used in §§ 100a.202 through 100a.206 (EDGAR) and the criteria contained in these regulations. The maximum possible point score for each criterion indicates the relative importance assigned to that criterion by the Commissioner.

(b) The selection criteria in EDGAR constitute 45 possible points and include the following:

(1) Plan of operation. (10 points)

(2) Quality of staff. (7 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (20 points)

(5) Adequacy of resources. (3 points)

(c) The criteria contained in the following paragraphs supplement the EDGAR criteria and constitute 55 possible points.

(1) *Need.* The extent to which the applicant clearly describes and documents the need for the project, including the population to be served and the project setting. (2 points)

(2) *Rationale.* The extent to which the applicant:

(i) Reviews and describes career education processes, techniques, and material developed in previous career education projects conducted by the applicant and/or by others.

(ii) Explains how relevant aspects of this previous work is to be utilized in implementing the proposed project. (3 points)

(3) *Objectives.* The applicant presents objectives that are:

(i) Clearly stated;

(ii) Relevant to project purposes;

(iii) Relevant to project needs;

(iv) Significant to others;

(v) Attainable; and

(vi) Measurable in terms of both the process and the outcome. (10 points)

(4) *Exemplary nature of project.* The extent to which the applicant's plan:

(i) Provides for a comprehensive career education project that, if successfully attained, holds high promise of serving as a useful model for others, and whose activities would be useful in other career education projects or programs for similar educational purposes. (10 points)

(ii) Contains provisions that foster coordination with similar projects, including plans for the development of an inventory of such projects and including provisions for collaborating with coordinators, managers, and staff of these projects. (10 points)

(iii) Contains specific measures to improve the project's career education activities by developing and maintaining effective education/work connections. (10 points)

(5) *The elimination or counteraction of stereotyping, bias and discrimination in career education activities.*

(i) The applicant addresses the need to eliminate discrimination, bias, and stereotyping in career education activities. (2 points)

(ii) The applicant's objectives adequately address the elimination of bias, and stereotyping based on race, sex, age, economic status, national origin, and handicap as well as the elimination of discrimination. (3 points)

(iii) The applicant's plan contains appropriate and effective procedures for achieving collaboration with organizations that include respectively, minorities, women, older persons, handicapped persons, and low-income persons. (3 points)

(iv) The personnel designated to carry out the project reflects an appropriate representation of women, minorities, older persons, and handicapped persons. (2 points)

The Commissioner does not fund a project unless it scores at least 7 points on this criterion.

(Implements secs. 10(a), 11(a); 20 U.S.C. 2609, 2610)

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Wednesday
October 17, 1979

Part III

Small Business Administration

Nondiscrimination on the Basis of Age in SBA Financial Assistance Programs

SMALL BUSINESS ADMINISTRATION

13 CFR Part 117

Nondiscrimination in Financial Assistance Programs of the Small Business Administration; Effectuation of the Age Discrimination Act of 1975, as Amended

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed Part has been promulgated to implement the provisions of the Age Discrimination Act of 1975, as amended (hereinafter referred to as the Act). The Act prohibits discrimination on the basis of age by recipients of Federal financial assistance in the rendering of services to persons of all ages, unless an age designation for such service is sanctioned by the exceptions set forth in the Act.

DATES: Comments must be received on or before December 17, 1979.

ADDRESS: 1441 L Street, NW, Suite 1200, Vermont Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. J. Arnold Feldman, Chief, Civil Rights Compliance Division, Office of Equal Employment Opportunity and Compliance, (202) 653–6054.

Dated: October 3, 1979.

William H. Mauk, Jr.,

Acting Administrator.

PART 117—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF SBA—EFFECTUATION OF THE AGE DISCRIMINATION ACT OF 1975, AS AMENDED.

Sec.

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Appendix A.
Appendix B.

Authority: Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.

§ 117.1 Purpose.

The purpose of this part is to effectuate the provisions of The Age Discrimination Act of 1975, as amended (hereinafter referred to as the "Act"), to the end that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under programs receiving financial assistance or any financial activities of the Small Business Administration to which this Act applies. The Act also permits recipients of Federal funds to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations in the provision of services to the public.

§ 117.2 Application of this part.

(a) This part applies to all recipients of assistance under programs administered by the Small Business Administration and to programs of financial assistance by the Small Business Administration.

(b) For the purposes of this part, the prohibition against age discrimination applies to persons of all ages.

(c) This part does not apply to the employment practices of a recipient except where a major purpose of the financial assistance is to provide employment.

(d) The effective date of this part is July 1, 1979, and its provisions apply to all recipients and applicants who apply for assistance on or after that date. Although complaints of violations will be processed after July 1, 1979, the mediation of complaints will not commence until after November 1, 1979.

§ 117.3 Definitions.

As used in this part:

(a) The term "financial assistance" means any financial assistance extended pursuant to any authorizing legislation administered by the Small Business Administration, whether extended directly in the form of a loan or indirectly through the services of Federal personnel or persons receiving Federal monies to perform such service.

(b) The term "applicant" means one who applies for Federal financial assistance.

(c) The term "recipient" means one who receives any Federal financial assistance from SBA under any of the statutes referred to in Appendix A of this part. The term "recipient" also shall be deemed to include "subrecipients" of SBA financial assistance, i.e., concerns which secondarily receive financial assistance from the primary recipients of such financial assistance. For the purposes of this part, a paragraph (b) lender (13 CFR 120.4 (b)) shall be deemed a recipient of financial assistance.

(d) The term "normal operation" means the operation of a business or activity without significant changes that would impair its ability to meet its objectives.

(e) The term "statutory objective" means any purpose of a business or activity expressly stated or affected by any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 117.4 Discrimination prohibited.

(a) *General.* To the extent that this part applies, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any business or activity receiving Federal financial assistance.

(b) Specific discriminatory actions prohibited. (1) To the extent that this part applies, a business or other activity or recipient may not, directly or through contractual arrangements, on the ground of age:

(i) Deny an individual any services, financial aid or other benefit provided by the business or other activity, except when prohibited from doing so by statutory objective;

(ii) Provide any service, financial aid or other benefit to a recipient or an individual which is not sanctioned by one of the exceptions stated below, which would deny or limit persons in their efforts to participate in Federally assisted programs;

(iii) Treat an individual differently from others, except as sanctioned by an exception stated below, in determining whether the person satisfied any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service, financial aid or other benefit provided by the business or activity.

(2) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Exceptions.* A recipient is permitted to take an action otherwise prohibited by paragraph (a) above, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a business or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of

any statutory objective of a business or activity, if:

(i) Age is used as a measure or approximation of one or more other characteristics, and

(ii) The other characteristic(s) must be measured or approximated in order for the normal operation of the business or activity to continue, or to achieve any statutory objective of the business or activity; and

(iii) The other characteristic(s) are impractical to measure directly on an individual basis; and

(iv) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(v) The factor bears a direct and substantial relationship to the normal operation of the business or activity or to the achievement of a statutory objective.

Note.—All of the above factors must be met in order to exclude a business or activity from the provisions of this part.

(d) The burden of proving that an age distinction or other action falls within the exceptions outlined in (c) is on the recipient of Federal financial assistance.

§ 117.5 Discrimination in providing financial assistance.

Development companies, small business investment companies, and paragraph (b) lenders under authority of 13 CFR 120.4(b) which apply for or receive any financial assistance may not discriminate on the ground of age in providing financial assistance to small business concerns.

§ 117.6 Discrimination in accommodations or services.

Small business concerns which apply for or receive any financial assistance or who are identifiable beneficiaries of loans made under any of the programs enumerated in Appendix A, such as but not limited to physicians, dentists, hospitals, schools, libraries, and other individuals or organizations which receive Federal financial assistance may not discriminate in the treatment, accommodations or services they provide to their patients, students, members, passengers, or members of the public, except when the normal operation or statutory objective of the business or activity of the intended beneficiary is designated in age-related terms, whether or not operated for profit. Such business or activities excluded from compliance with this regulation must fall within the exceptions enumerated in § 117.4(c) of this part.

§ 117.7 Illustrative applications.

(a) *Financial assistance.* The discrimination prohibited by § 117.4 includes but is not limited to the failure or refusal, because of the age of the applicant, to extend a loan or equity financing to any business concern or, in the case of financing which has actually been extended, the failure or refusal because of the age of the recipient, to accord the recipient fair treatment and the customary courtesies regarding such matters as default, grace periods and the like.

(b) *Accommodations or services.* The discrimination prohibited by § 117.6 includes, but is not limited to the failure or refusal, because of age, to accept a patient, student, member, or passenger, except when the intended beneficiary is designated in age-related terms or when the imposition of this prohibition would interfere with the normal operation of the business.

§ 117.8 Assurances required.

An application for any financial assistance described in Appendix A shall, as a condition of its approval and the extension of such assistance, contain or be accompanied by an assurance that the recipient will comply with this part. SBA shall specify the form of the foregoing assurance for each program, and the extent to which like assurances will be required of contractors and subcontractors, transferees, successors, and other participants in the program.

§ 117.9 Compliance information.

(a) *Cooperation and assistance.* SBA shall to the fullest extent practicable seek the cooperation of applicants and recipients in obtaining compliance with this part and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this part.

(b) *Self-evaluation.* Each recipient or subrecipient of Federal financial assistance, employing 15 or more full-time employees, shall complete and submit to SBA a written self-evaluation of its compliance under the Act within 18 months of the effective date of this regulation. This self-evaluation shall identify and justify each age distinction imposed by the recipient.

(c) Compliance reports: Each applicant or recipient shall keep such records and submit to SBA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as SBA may determine to be necessary to enable SBA to ascertain whether the applicant or recipient has complied or is complying with this part. In the case of a small business concern which receives financial assistance from a development company or from a small business investment company, such concern shall submit to the company such information as may be necessary to enable the company to meet its reporting requirements under this part.

(d) Access to sources of information. Each applicant or recipient shall permit access by SBA during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of an applicant or recipient is in the exclusive possession of any other agency, institution or person and that agency, institution or person shall fail or refuse to furnish the information, the applicant or recipient shall so certify in its report and shall set forth what efforts it has made to obtain the required information. The recipient will be held responsible for submitting the information. Failure to so submit reports on required information to SBA subject recipient to sanctions as provided in Section 117.11 of this part.

(e) Information to the public. Each recipient shall make available to persons entitled under the Act, and under this part to protection against discrimination by the recipient, such information as SBA may find necessary to apprise them of their rights to such protection.

§ 117.10 Review and complaint procedures.

(a) *Periodic compliance reviews.* SBA shall from time to time review the practices of recipients to determine whether they are complying with this part. Failure by a recipient to come into compliance following a finding of noncompliance will subject recipients to the sanctions contained in Section 117.11 of this part. A refusal to permit an on-site review during normal working hours constitutes noncompliance with this part.

(b) *Compliants.* (1) Any person who believes that he/she or any specific class of individuals is being or has been subjected to discrimination prohibited by this part may, by themself or by a representative, file with SBA a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by SBA. The complainant has the right to have a representative at all stages of the complaint procedure.

(2) Each complaint will be reviewed to ensure that it falls within the coverage

of the Act and contains all information necessary for further processing.

(3) Notice shall be given to complainants and/or recipients of their rights and obligations in the complaint process. The complainant or the recipient (or the representative for the complainant or recipient) has the right to contact SBA for information and assistance regarding the complaint resolution process.

(c) *Mediation.* (1) SBA shall, after ensuring that the complaint falls within the coverage of this Act, promptly refer the complaint to the Federal Mediation and Conciliation Service (FMCS). SBA shall require the participation of the recipient and the complainant in the mediation process in an effort to reach a mutually satisfactory settlement of the complaint. Both parties need not meet with the mediator at the same time.

(2) If the complainant and the recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing.

(3) A copy of the written mediation agreement will be referred to SBA, and no further action will be taken unless it appears that either the complainant or the recipient is failing to comply with the agreement.

(4) If at the end of 60 days after the receipt of a complaint by SBA, or at any time prior thereto, the complaint is still unresolved by the FMCS, or it appears that the complaint cannot be resolved through mediation, the complaint will be returned to SBA for an initial investigation. The mediator has the authority to terminate the mediation process at any time prior to the end of the 60-day period if the process appears to have broken down.

Note.—The mediator shall be compelled to protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained during the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(d) *Investigations.* SBA will make a prompt investigation whenever a compliance review indicates a possible failure to comply with this part by the recipient and additional information is needed by SBA to assure compliance with this part, or when an unresolved complaint has been returned by the FMCS, or when it appears that the complainant or the recipient is failing to comply with a mediation agreement. A compliance review and an investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient is complying, is not complying, or has failed to comply with this part.

(e) *Resolution of matters.* If a review or an investigation, pursuant to paragraphs (a) or (d) of this section, indicates a failure to comply with this part, SBA will so inform the complainant, if applicable, and the recipient that the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 117.11.

(2) If an investigation does not warrant action pursuant to paragraph (e) of this section, SBA will so inform the complainant, if applicable and the recipient in writing.

(f) *Intimidatory or retaliatory acts prohibited.* No complainant, recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this part or because an individual or group has made a complaint, testified, assisted, or participated in any manner in an investigation, review, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, mediation, or judicial proceeding.

§ 117.11 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant, or in the case of a loan which as been partially disbursed, by refusing to make further disbursements. In addition, compliance may be effected by any other means authorized by law.

(2) Such other means may include but are not limited to (i) action by SBA to accelerate the maturity of the recipient's obligation; (ii) referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, including the Act; and (iii) any applicable proceedings under State or local law.

(b) *Noncompliance with § 117.8 and § 117.9.* If an applicant fails or refuses to furnish an assurance required under § 117.8, or fails to submit a required report or access to information under § 117.9, or otherwise fails or refuses to comply with a requirement imposed by or pursuant to those sections, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. SBA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that SBA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application approved prior to July 1, 1979.

(c) *Conditions precedent.* No order accelerating repayment, suspending, terminating, or refusing financial assistance shall become effective until (1) SBA has advised the applicant or recipient of the failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding on the record, after an opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; (3) the action has been approved by the Administrator of SBA pursuant to § 117.13; and (4) the expiration of 30 days after SBA has filed with the committee of the House and the committee of the Senate having legislative jurisdiction of the form of financial assistance involved, a full written report of the circumstances and the grounds for such action.

(d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until (1) SBA has determined that compliance cannot be secured by voluntary means; (2) the action has been approved by the Administrator or designee; (3) the applicant or recipient has been notified of the failure to comply, and of the action to be taken to effect compliance; and (4) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days from the mailing of such notice to the applicant or recipient or other person, additional efforts shall be made to persuade the applicant or recipient to comply with this part and to take such corrective action as may be appropriate.

§ 117.12 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 117.11, reasonable notice shall be given by registered or

certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of SBA that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph within 30 days after the date of such notice or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and as consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of SBA in Washington, D.C. at a time fixed by SBA unless SBA determines that the convenience of the applicant or recipient or of SBA requires that another place be selected. Hearings shall be held before an administrative law judge designated in accordance with the Administrative Procedures Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and SBA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearings, decisions, and any administrative review thereof shall be conducted in conformity with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments, and briefs, request for findings and other related matters. SBA, the complainant, if any, and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing, or as determined by the administrative law judge conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available, and subject testimony to test by cross-examination shall be applied where reasonably necessary by the administrative law judge conducting the hearing. The administrative law judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) Consolidated or joint hearings. In cases in which the same or related facts are asserted to constitute noncompliance or threatened noncompliance with this part, with respect to two or more forms of financial assistance to which this part applies, or noncompliance with this part and the regulations of one or more other Federal agencies issued under the Act, the Administrator may, by agreement with such other agencies, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules and procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 117.13.

§ 117.13 Decisions and notices.

(a) *Decision by an administrative law judge.* If the hearing is held by an administrative law judge such administrative law judge shall either make an initial decision, if so authorized, or certify the entire record, including recommended findings and proposed decision, to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the administrative law judge, the applicant or recipient may, within 30 days of the mailing of such notice of initial decision, file with the Administrator exceptions to the initial decision, with the reasons therefore. In the absence of exceptions, the Administrator may, by motion within 45 days after the initial decision, serve on the applicant or recipient, a notice that he/she will review the decision. Upon the filing of such exceptions or of such notice of review, the Administrator shall review the initial decision and issue his/her decision thereon, including the reasons therefor. The decisions of the Administrator shall be mailed promptly to the applicant or recipient, and the complainant, if any. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Whenever a record is certified to the Administrator for decision or the Administrator reviews the decision of an administrative law judge pursuant to paragrpah (a) of this section, or whenever the Secretary of the Department of Health, Education, and Welfare or the Department of Justice conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) Decisions on record where a hearing is waived. Whenever a hearing is waived pursuant to § 117.12, a decision shall be made by the Administrator on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of an administrative law judge or the Administrator shall set forth the ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for accelerating of repayment, suspension or termination of, or refusal to approve, disburse, or continue Federal financial assistance, in whole or in part, under the programs involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will, thereafter, be extended under such program to the applicant or recipient determined by such decision to have failed to comply with this part, unless and until it corrects its noncompoliance and satisfies the Administrator that it will fully comply with this part.

(f) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance only if it satisfies the terms and conditions of that order for such eligibility and it brings itself into compliance with this regulation and provides reasonable

assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (f)(1) of this section. If the Administrator determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules and procedures issued by the Adminstrator. The applicant or recipient shall be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposd by the order issued under paragrph (e) of this section shall remain in effect.

§ 117.14 Judicial review.

(a) The complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the Agency has made no finding with regard to the complaint; or

(2) The agency issued any finding in favor of the recipient.

(b) If either of the conditions set forth in § 117.14(a) is satisfied, and the complainant wishes to file a suit in a United States District Court, the complainant shall:

(1) Give 30 days notice, by registered mail, to the Attorney General, the Secretary of the Department of Health, Education, and Welfare, the Administrator of SBA, and the recipient; and

(2) Indicate at the time the suit is filed if attorney's fees will be demanded in the event that the complainant is successful.

(c) No action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

(d) A civil action can only be brought in a United States District Court for the district in which the recipient is found or transacts business.

§ 117.15 Effect on other regulations, forms and instructions.

(a) *Effect on other regulations.* All regulations, orders or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of age and which authorize the suspension or termination of or refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246, as amended, and regulations issued thereunder, (2) Title VI of the Civil Rights Act of 1964, as amended, (3) The Equal Credit Opportunity Act, as amended and Regulation B of the Board of Governors of the Federal Reserve System (12 CFR 202), (4) Section 504 of the Rehabilitation Act of 1973, as amended, (5) Part 113 of Title 13 of the Code of Federal Regulations (13 CFR 113), or (6) any other statute, order, regulation or instruction, insofar as such order, regulation, or instruction prohibits discrimination on the grounds of age in any program or situation to which this part is inapplicable on any other ground.

(b) *Forms and instructions.* SBA shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government with the consent of such agencies, responsibilities in connection with the effectuation of the purpose of Act and this part (other than responsibility for final decision as provided in § 117.13), including the achievement of effective coordination and maximum uniformity within SBA and within the Executive Branch of the Government in the application of the Act and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of SBA or the head of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Administrator of SBA.

Appendix A

Name of program and authority

Regular Business Loans—Small Business Act, Sec. 7(a).
Economic Opportunity Loans—Small Business Act, Sec. 7(i) (Formerly Title IV of the Economic Opportunity Act).
Pool Loans—Small Business Act, Sec. 7(a)(5).
Displaced Business Loans—Small Business Act, Sec. 7(b)(3).
Handicapped Assistance Loans—Small Business Act, 7(h).
Disaster loans:
- Physical, including riot—Small Business Act, Sec. 7(b)(1) as amended by secs. 231, 234, and 237 of the Disaster Relief Act of 1970, PL 92-385, PL 93-24, and PL 94-68.
- Economic Injury—Small Business Act, sec. 7(b)(2) as amended by secs. 231 and 234 of the Disaster Relief Act of 1970, PL 92-385, PL 93-24, and PL 94-68.
- Product disaster—Small Business Act, Sec. 7(b) PL 93-385, PL 93-24, PL 94-68.
- Coal mine health and safety—Small Business Act, Sec. 7(b)(5).
- Consumer protection—Small Business Act, Sec. 7(b)(5).
- Occupational safety and health—Small Business Act, Sec. 7(b)(5).
- Strategic arms, economic injury—Small Business Act, Sec. 7(b)(6).
- Air pollution control—Small Business Act, Sec. 7(b)(5).
- Base closing economic injury—Small Business Act, Sec. 7(b)(7).
- Water pollution control—Small Business Act, Sec. 7(g)(1).
- Emergency energy shortage economic injury—Small Business Act, Sec. 7(b)(8).
- Other regulatory—Small Business Act, Sec. 7(b)(5).

Debtor local development company loans (502) and their small business concerns—Small Business Investment Act, Sec. 502.
Debtor state development company loans (501) and their small business concerns—Small Business investment Act, Sec. 501.
Debtor small business investement companies and their small business concerns—Small Business investment Act, title III.

Note.—All programs listed above are also covered by Parts 112, and 113 of Title 13 of the Code of Federal Regulations.

Appendix B

Statutes which the age designations made in those businesses and activities whose services are restricted to certain age groups are based on state laws.

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Wednesday
October 17, 1979

Part IV

Regulatory Council

Statement on Regulation of Chemical Carcinogens; Policy and Request for Public Comments

REGULATORY COUNCIL

Statement on Regulation of Chemical Carcinogens; Policy and Request for Public Comment

AGENCY: Regulatory Council.

ACTION: Notice of Policy and Request for Public Comment.

SUMMARY: This policy is being published in the **Federal Register** to inform the public of the practices and principles the participating Federal regulatory agencies will follow in initiating regulatory actions relating to chemical carcinogens.

The Regulatory Council would welcome any comments from the public, particularly any additional information pertinent to these policies which may have been considered in the preparation of the statement.

Because much of the scientific basis for the policies on identifying chemical carcinogens and assessing human risk relies on the analyses and discussion in the document "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks," published at 44 FR 39858, July 6, 1979 (Annex B to this document), we request potential commenters to read that document carefully before commenting on the *scientific issues* addressed in the Regulatory Council's statement. We would further suggest that any comments on the substance of Annex B be addressed directly to that document which is currently undergoing public review and comment as well. The comment period on that document is being extended to October 31 by separate notice to allow additional comments to be received.

DATES: We would appreciate receiving comments by November 15, 1979, to ensure speedy consideration of additional public views.

ADDRESS: Mail comments to: Regulatory Council, Attention: Cancer Policy, Room 5002, New Executive Office Building, Washington, D.C. 20503.

Copies of this document including Annex B are available from: Industry Assistance Office, Office of Toxic Substances (TS–799), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; or

Call toll-free 800/424–9065. In Washington, call 554–1404.

Signed in Washington, D.C., this 11th day of October 1979.

Peter J. Petkas,

Director.

Regulation of Chemical Carcinogens, September 28, 1979.

Statement on Regulation of Chemical Carcinogens

Introduction.
Determining Whether a Chemical Substance May Cause Cancer.
Assessing the Risk of Cancer to Humans.
Setting Priorities for Regulating Carcinogens.
Considering Regulatory Action.
Federal Agencies Having Primary Roles in the Regulation of Chemical Carcinogens, Annex A.
Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks, Annex B.
Interagency Coordination Efforts Currently Underway Relevant to the Regulation of Carcinogens, Annex C.

Statement on Regulation of Chemical Carcinogens

Introduction

Cancer is a major national public health problem. Various kinds of cancer currently claim almost 400,000 lives per year, second only to heart disease, and a million people are under treatment for some form of the disease. One in four Americans—an average of almost one person per family—can expect to develop cancer in his or her lifetime, one in five will eventually die of it.

Cancer is also a substantial economic burden. The National Center for Health Statistics estimates that by 1977 the Nation was spending $5.5 billion each year on hospital care and physicians' services for cancer patients, and that the expected earnings of people who died that year had a value of $14.6 to $18.5 billion.

In addition, there are substantial social costs that are more difficult to quantify. The cancer victim may be disabled and in substantial pain even if he or she survives the disease. The victim's family may be left financially destitute and socially isolated, and may not recover from the psychological and economic costs related to the disease.

Encouraging advances are being made in treating some forms of cancer, so that more victims are now living five or more years after the disease is discovered. But progress in cancer treatment is slow because of the many gaps in our basic scientific knowledge about the disease.

The Nation, therefore, must make a particularly strong effort to prevent various kinds of cancer. With our present knowledge, this can be done most effectively by preventing the exposure of people to cancer-causing agents. There is substantial evidence that environmental factors are among the major causes of at least some kinds of cancer. Environmental factors include potential cancer-causing substances (called carcinogens) in food, air, drinking water, tobacco products, workplaces, drugs, and household products, as well as radiation (including ultraviolet light). In many instances people are exposed unknowingly to these factors and have little or no power to prevent such exposure.

To provide effective means of dealing with these problems, the Congress has enacted a number of laws under which several Federal agencies are empowered to prevent or limit human exposure to carcinogens. Annex A lists the Federal agencies primarily involved in such activities and briefly describes their authority to regulate carcinogens (excluding radiation, which is not covered in this policy statement). Because of the number of different agencies that are involved in the effort to control cancer, many people in the Administration, in Congress, and in the general public have become concerned about possible inconsistencies, duplication of effort, and lack of coordination which could make the attack on cancer less effective and more expensive than it need be.

Avoiding such problems has been one of the major priorities of this Administration. To this end, President Carter established the Regulatory Council in October 1978 to promote improved coordination of regulatory activities and to help ensure that regulatory objectives are achieved in a cost effective manner. Because of the importance of cancer in our society and the need to ensure that we control it effectively and efficiently, the President asked the Regulatory Council, as one of its first projects, to develop a statement setting forth the policies to be followed by regulatory agencies in their efforts to prevent or limit human exposure to carcinogens. This document is the product of that effort.

It in turn relies substantially upon an earlier effort undertaken by four of the regulatory agencies—the Environmental Protection Agency, Food and Drug Administration, Occupational Safety and Health Administration, and Consumer Product Safety Commission (recently joined by the Food Safety and Quality Service). Two years ago, the heads of these agencies formed the Interagency Regulatory Liaison Group (IRLG) to improve the public health through sharing of information, avoiding duplication of effort, and developing consistent regulatory policy.

Recognizing the importance of coordinating their regulation of cancer-causing chemicals, the agency heads asked key scientists and other staff from their agencies, the National Cancer Institute, and the National Institute of Environmental Health Sciences to prepare a document setting forth the scientific bases for making regulatory decisions on carcinogens. This group prepared a document entitled "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" (attached as Annex B) which represents the best judgment of the participating scientists on the scientific principles applicable to identifying and evaluating substances that may pose a risk of cancer to humans.

The Regulatory Council's assignment was to consider the scientific issues addressed in the IRLG document along with the many other aspects of the government's efforts to regulate carcinogens, and to prepare a government-wide policy which reflected this Administration's actions to promote more effectively the public health without imposing unnecessary burdens upon the economy, and to eliminate potential inconsistencies and inefficiencies in the government's regulatory programs.

In carrying out this assignment the Council took account of not only the IRLG document, but many other reports and activities relating to the government's effort to control cancer. These included reports by the President's Office of Science and Technology Policy and the interagency Toxic Substances Strategy Committee, the analyses and comments relating to the Occupational Safety and Health Administration's proposed cancer policy, and the activities of the National Toxicology Program, the National Institutes of Health, and the National Cancer Advisory Board.

Although the preparation of this statement benefited from all of these efforts, it is based most substantially upon the document prepared by the IRLG. That document, attached as Annex B, should be referred to for additional information. The IRLG document has undergone scientific peer review and is currently receiving public comment; any changes made in it as a result of the review and comment process will be incorporated into this policy.

There are many important aspects of the government's efforts to reduce the seriousness of the problem of cancer in our society. These range from basic research on the biology and causes of cancer, through efforts to improve the diagnosis and treatment of the disease, to the rehabilitation of cancer victims. The focus of the Regulatory Council, however, was on issues relating to the efforts of the regulatory agencies to limit people's exposure to cancer-causing substances. Here the Council carefully reviewed the different components of the regulatory process, and the current efforts to coordinate activities in each (Annex C). As a result, it concluded that the predominant need for clarification and coordination was limited to the following four major areas of activity relating to the regulation of chemical carcinogens:

- Determining whether a chemical may cause cancer.
- Assessing the risk of cancer to humans.
- Establishing regulatory priorities.
- Undertaking regulatory activities.

These are the four areas addressed in this policy statement. An agency's actions within these areas are, of course, determined by the specific language in the applicable Federal law. However, there are many common issues which all the agencies have to deal with. This statement briefly summarizes the concepts and principles that the regulatory agencies will generally follow in each of the four areas, consistent with substantive and procedural legal constraints, in initiating regulatory action. The members of the Council do not consider this statement in any way to alter their obligations to reach decisions based upon information in the record of the particular action involved.

Determining Whether a Chemical Substance May Cause Cancer

The first step in regulating a substance as a carcinogen is to examine and evaluate the evidence that it may cause or contribute to the occurrence of human cancer. The two principal sources of such evidence are epidemiological studies involving people exposed to the substance, and testing in laboratory animals.

It is important that the regulatory agencies make such evaluations in accordance with current scientific thinking and in a consistent manner. The IRLG document "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" is a significant step in this direction. One portion of this document describes the basis for making qualitative evaluations of whether a particular substance presents a carcinogenic hazard, and how the results of epidemiological studies and animal testing, along with other types of information, are used in making these evaluations.

Regulatory agencies will base their determinations of whether a substance is likely to be carcinogenic upon a rigorous evaluation of all relevant, available scientific evidence. Epidemiological studies or animal tests provide the best evidence of carcinogenicity, but other types of information can also be important. Although they cannot be adequately summarized in a few sentences it is important that there be a general understanding of several basic concepts involved in these evaluations.

Epidemiological Studies. Properly designed and conducted epidemiological studies showing a significant satistical relationship between human exposure to a substance and an increased occurrence of cancer in the exposed population are considered to provide good evidence that the substance is carcinogenic.

In the past many people argued that such studies should be considered a prerequisite to undertaking any significant regulatory action. There are, however, limitations on the usefulness of epidemiology. Everyone is exposed to many chemicals in his or her lifetime. And cancer may not occur until 30 years or more after exposure to a carcinogen. Thus, there may be a substantial delay, allowing many additional people to be exposed, before any epidemiological evidence can be obtained. Even then, it may be very difficult to associate the occurrence of cancer with exposure to specific chemicals may years previously. Epidemiological studies often cannot detect even large increases (which could involve thousands of people) in the occurrence of cancer resulting from exposure to chemicals. For these reasons:

- The failure of an epidemiological study to detect an association between the occurrence of cancer and exposure to a specific substance should not be taken to indicate necessarily that the substance is not carcinogenic.
- Because it is unacceptable to allow exposure to potential carcinogens to continue until human cancer actually occurs, regulatory agencies should not wait for epidemiological evidence before taking action to limit human exposure to chemicals considered to be carcinogenic.

Testing in Animals. Properly designed and conducted tests in laboratory animals also provide good evidence of a substance's potential human carcinogenicity. From a biological standpoint the development of cancer is similar in humans and animals, even though different species and different strains of a species may demonstrate different sensitivities to specific

substances. Because we cannot test substances in humans or wait for demonstrations of carcinogenicity from epidemiological studies, Federal agencies must continue to use animal tests to identify chemical substances that may cause human cancer. In interpreting and applying the results of these tests they should use the following precepts unless there is substantial scientific or legal reason not to:

• A substance that causes cancer in animals, when tested under appropriate conditions, will be considered a potential human carcinogen.

• Animal tests provide valid information even though the dosage administered to the animals may be higher than humans are likely to experience. Animals are given relatively high doses both to increase the sensitivity of the test by maximizing the likelihood that a cancer-causing substance will actually produce cancer, and to compensate for the relatively small numbers of animals typically used in the tests. Although the likelihood of detecting a carcinogenic effect and the time between exposure to the carcinogen and the occurrence of cancer may be related to the dose level tested, the intrinsic ability of a substance to induce cancer is independent of dosage. A noncarcinogen can be toxic when administered in high doses, but it will not directly cause cancer at any dose level. In fact, the majority of chemicals tested in animals, even at high doses, has not been found to be carcinoginic.

• Evaluation of the results of animal testing is simplified when the animals are exposed by the same route by which people are or will be exposed, but the results are also relevant to human risks where exposure is by a different route. For instance, if a substance causes cancer when tested by ingestion, there is good reason to expect it to be able to cause cancer when inhaled.

• In evaluating results of animal tests, the occurrence of benign tumors in the treated animals is an indication that the substance being tested may produce malignant tumors as well. Benign tumors often are a precursor stage of malignant growths. Furthermore, virtually all extensively tested chemicals that have produced benign tumors have also produced malignant tumors.

• If a substance has been shown to be carcinogenic under the conditions of a single properly designed and conducted test, it should be considered as posing a risk of cancer to humans. Although the agencies should attempt to obtain additional data, they should not take the risk involved in waiting the two to four years required to complete an additional animal bioassay before initiating regulatory action.

• Evidence that a chemical is a carcinogen is strengthened by test results indicating carcinogenicity under two or more tests or test conditions (for example, at two or more dose levels, in both sexes, or in two or more animal strains of species). Similarly, evidence that a substance is not a carcinogen is strengthened if there is a lack of carcinogenic response in two or more properly disigned and conducted tests.

• In cases where there are conflicting results from more than one properly designed and conducted test, results failing to demonstrate a carcinogenic response do not detract from the validity of results showing such a response if different species of animals were tested, and they do not ordinarily detract from such results if the same species were tested. Even known carcinogens would be expected to show no response in some tests, particularly, for instance, when relatively few animals are involved, dose levels are low, or an insensitive animal strain is used.

Other Types of Evidence. In recent years there has been encouraging progress in developing certain short-term screening tests (involving animals, mammalian cells, or micro-organisms) and in using chemical structure to predict carcinogenic potential. Such approaches may provide a substantially faster and less expensive way of obtaining evidence on a substance's potential carcinogenicity. Such evidence, although currently only considered suggestive, can properly be used for the following purposes:

• To help identify chemicals that should be more thoroughly tested.

• To help in planning priorities for regulatory actions.

• To buttress evaluations of the results of long-term testing in animals.

• To support regulatory actions dealing with groups of substances having similar chemical or biological properties.

Testing Policy: Because long-term testing in animals is so important in evaluating the cancer-causing potential of chemical substances, and because such testing is time-consuming and expensive and requires scientific expertise and specialized facilities, it is essential that it be performed as efficiently as possible. The current government policy on such testing is that:

• The primary responsibility for much of this testing, as specified in several Federal laws, lies with the firms involved in manufacturing chemical substances. Agencies having the authority to do so should ensure that any required testing is carried out properly and as expeditiously as possible.

• The Federal regulatory agencies specify the chemicals to be tested and the testing procedures to be used by industry, and ensure industry compliance with testing requirements. they also cooperate with the Federal research agencies responsible for basic research on cancer causes and treatment, to support the development and validation of new testing procedures, and to perform testing (as well as epidemiological studies) in certain circumstances, for instance, where it is not practical to rely on industry to do so or where an agency is not authorized to impose such requirements on industry.

• Although a substance may sometimes need to be tested more than once to assess its potential carcinogenicity under differing conditions, regulatory agencies will avoid, whenever possible, imposing duplicative or conflicting testing requirements. The IRLG agencies are already preparing testing guidelines to accomplish this goal.

Assessing the risk of cancer to humans

After it has been determined that a chemical substance is likely to be carcinogenic, the next step in regulatory decision-making is to assess the risk that people face of developing cancer from their exposure to the substance.

Contents of Risk Assessments. All risk assessments contain two basic components. The first is an analysis of the evidence of the carcinogenicity of the substance, and the second is an analysis of the human exposure to the substance in order to assess the health risk it may pose.

The analysis of the carcinogenicity as described in the preceding section of this statement, involves a determination of whether a substance is likely to cause cancer in humans, accompanied by a characterization of the extent and quality of the evidence supporting this determination. It may also include an analysis of the relationship between the observed carcinogenic effects and the dose levels used in animal tests or the apparant levels of exposure in epidemiological studies.

The analysis of human exposure involves at least an estimate of the size of the exposed population, and may also include such factors as exposure sources, routes, and conditions, the duration, frequency, and intensity of exposure, and the relevant characteristics (e.g., age, sex, health) of the exposed population. The agencies will use exposure measurements when

they are available and reliable; otherwise, they should estimate exposure based upon reasonable assumptions and interpretations of the best data available, which may be limited to information on the manufacture, use, or environmental discharge/disposal of the chemical substance in question.

Although all risk assessments include these two basic components (analyzing the evidence of carcinogenicity and likely human exposure) the form, methodology, and elaborateness of the assessment may vary substantially. Depending upon the characteristics and extent of the available information and on the regulatory agency's specific needs, the range of approaches varies from quantitative estimates of the increased human risk of developing cancer to nonquantitative assessments of relevant epidemiological and/or testing data and evidence that people are likely to be exposed to the substance.

Risk Assessment Precepts. When undertaking risk assessments, the regulatory agencies will follow the following precepts:

- Except where a statute, as in the case with the Clean Water Act, explicitly indicates which substances are to be controlled and how, every regulatory proposal will be accompanied by some form of risk assessment which includes, at a minimum, an analysis of the evidence of the substance's carcinogenicity and a determination that people are likely to be exposed to the substance.
- The particular form and type of risk assessment undertaken will depend upon the suitability of the available information to support different types of analyses, and upon the amount of information the agency needs to support proposed regulatory actions.
- Because there is no currently recognized method for determining a no-effect level for a carcinogen in an exposed population, substances identified as carcinogens will be considered capable of causing or contributing to the development of cancer even at the lowest doses of exposure.

Where the available data are scientifically adequate to support them, quantitative risk estimates can provide useful information for proposed regulatory decisions. When they make such estimates in initiating regulatory actions, the agencies will use the procedures described in the IRLG document "Scientific Bases for the Identification of Potential Carcinogens and Estimation of Risks".

- However, quantitative risk estimates are not yet sufficiently developed to be regarded as more than rough indicators of the level of human risk. The sources of uncertainty include, for instance, the difficulties of extrapolating from one population group to another, from high doses to low doses, and from animals to man, and the impossibility of identifying or considering all the factors that affect the response of people to exposure from specific carcinogenic substances.
- In certain instances, it is impractical or unnecessary to make quantitative exposure or risk estimates. This may be true when it is impossible to predict what exposure may occur, in dealing with complex chemical mixtures of unknown or varying composition where it is not feasible to regulate each of the constituents independently, or when regulatory action is concerned with substances to which the population is exposed through a multitude of sources or products at different levels and in different ways.
- If they undertake quantitative estimates of risk, agencies will attempt to identify the range of risk that could, on the basis of available information, reasonably be associated with possible exposure to the substance. Because underestimating cancer risks could have serious public health consequences, the agencies will in particular attempt to estimate the maximum risk that could reasonably be expected.
- Because all risk assessments, whether quantitative or not, necessarily involve substantial degrees of uncertainty, they will be accompanied by statements discussing these uncertainties.

Setting priorities for regulating carcinogens

A substantial number of cancer-causing chemicals has already been identified. As other chemicals are tested, some of them also are likely to be found capable of producing cancer. In deciding which ones to regulate first, Federal agencies will generally assign higher priorities to substances for which:

- There is substantial evidence that the substance is likely to present a risk of human cancer. Epidemiological studies and/or animal testing are sources of such evidence.
- There is reason to believe that the level of human exposure and/or risk is high. Either quantitative or nonquantitative risk assessments may provide a basis for such belief.
- The exposed population is large or is of special concern, such as children.
- Regulatory action could significantly reduce the extent of intensity or human exposure.
- Regulatory action could reduce not only cancer risk but also other human health and environmental hazards.
- A substance is, or could be, available that would pose a lower risk of cancer or other serious human health problems, or available evidence otherwise suggests that the social and economic costs of regulation would be small.

The relative importance of these priority-setting criteria will necessarily vary from case to case, and in establishing their final priorities the agencies also consider:

- The requirements of applicable laws or court orders which may limit their flexibility to establish their own priorities
- Their responsibilities for dealing with other health and environmental hazards
- The regulatory actions being taken or planned by other agencies.

Although the agencies will continue to coordinate their regulatory actions, each agency will establish its own regulatory priorities. Specific substances usually are not equally important from the standpoint of every agency's statutory mission. As an example, one substance may provide a serious risk to workers, but very little in consumer products. Another, however, might provide a serious risk in consumer products, but present little risk to workers. The most effective public health protection would occur if the agency concerned with protecting workers gives the former a higher priority and the agency concerned with protecting consumers gives the latter a higher priority.

In general, the regulatory programs will provide the most public health protection if each agency dealing with a specific area of exposure places the highest priority on the substance which provides the greatest health risk in its area of concern. Otherwise, agencies might be regulating substances which are of relatively little importance in their area of concern, creating unnecessary regulations and costs, with little public health benefit, and putting off actions which would provide much more benefit. For these reasons, it is neither necessary nor desirable that all agencies assign the same priority to each substance.

Considering Regulatory Action

Federal laws governing the regulatory programs often prescribe the factors to be considered in choosing among regulatory options and deciding how extensive and stringent regulatory

action should be. In many instances, however, regulatory agencies have latitude to interpret and apply the statutory language.

Bases for Regulatory Action. In brief, regulatory decisions generally are based upon one or some combination of the following approaches:

• *Risk.* A few statutes require agencies, when making a regulatory decision, to consider solely or primarily the risk a substance poses. If a statute requires the elimination of risk, this can be accomplished only by eliminating human exposure, because there is no known way to identify levels below which exposure to cancer-causing substances presents no risk.

• *Technical and Economic Feasibility.* Various Federal laws require that regulatory decisions be based solely or primarily upon the technical and/or economic feasibility of controlling the release of or human exposure to cancer-causing substances. The stringency sought in such feasibility-based standards is stated in the applicable law—for example, "best available technology." The statute's language determines how an agency chooses among technologies capable of reducing environmental releases of (or human exposure to) chemical substances, and whether and how it considers associated economic and other impacts in making this choice. In some instances the technological standard is also determined by requirements to achieve certain ambient exposure levels.

• *Comparing Costs and Benefits.* Various statutes permit or sometimes require regulatory agencies to ensure that the economic and social costs of regulatory action are taken into account along with the expected risk reduction. Such statutes may refer to consideration of either the costs and benefits of regulatory action or the risks a substance poses and the benefits it provides.

In some statutes, Congress, after considering the advantages and disadvantages of these different approaches, has specified that one of them be used. For instance, Congress enacted a section of the Food, Drug and Cosmetic Act that requires the Food and Drug Administration to prohibit the use of any food additive found to be carcinogenic which presumably reflected a judgment that, among other considerations, the seriousness of the risk posed by carcinogenic food additives would exceed the benefits they provide and the costs associated with not using them; while a statute enacted to regulate pesticides indicates that the agency must take into account "the economical, social, and environmental costs and benefits" associated with the pesticide's use.

The fact that cancer-causing substances enter the environment and come into contact with people by various routes means that no single regulatory approach is equally suitable for dealing with cancer-causing substances in media as different as foods, drugs, household products, workplaces, air, and drinking water. Accordingly, it is, and will continue to be, necessary for Federal regulatory agencies to make appropriate use of different regulatory approaches when making regulatory decisions.

Regulatory Principles. The agencies nevertheless will follow several common regulatory principles. These principles will ordinarily guide the agencies in initiating regulatory actions, but they will not be rigidly and uniformly applied in all cases.

• In some cases, zero risk will be an appropriate regulatory goal. It is established as such in a few national policies and statutes. It is also an appropriate goal where (e.g., in controlling specific commercial products or specific types of discharges) the economic and social costs of regulation are so slight that almost any risk would be unreasonable. This might be the case, for instance, when there are several available substitutes for the substance being regulated which are no more costly than that substance and which create no known health risks.

• Zero risk will not routinely be considered achievable. For carcinogens, existing scientific knowledge indicates that zero risk requires zero exposure. But cancer-causing substances often occur in so many different consumer products, industrial raw materials, and commerical and industrial wastes that completely eliminating exposure, even if possible to do so, could, in many cases, have unacceptable economic, social and even health impacts.

• When planning a major regulatory action, in keeping with Executive Order 12044 and other Administration regulatory reform initiatives, agencies will analyze the economic consequences of proposed regulations, will identify and consider alternatives that would achieve their health protection goals, and, to the extent consistent with applicable laws, will choose the alternative that achieves their goals with the least economic and social costs.

• In limiting a substance's use, it is sometimes appropriate to consider other products or processes which might be adopted as a substitute for the substance being regulated. In these cases, one of the factors the agencies will consider, to the extent practicable, in making their regulatory decision is the health hazards associated with such substitutes.

• To avoid conflict and duplication, if several agencies are planning to adopt regulations controlling a specific substance or problem, they will coordinate the development of their regulations. The IRLG and the Regulatory Council have already adopted mechanisms to promote such coordination.

These principles are generally in accord with the requirements of Executive Order 12044. Federal agencies have elsewhere described the specific procedures they follow in analyzing and documenting the probable environmental, public health, economic, technological, and other impacts of proposed regulations and in providing opportunities for public participation.

Further Actions. Agencies responsible for regulating carcinogens have and will continue to identify and evaluate ways of improving their regulatory programs. Among other possibilities, they have considered or will consider, when appropriate, adopting generic policies for regulating carcinogens. Some are also evaluating the advantages and disadvantages of taking interim regulatory action to reduce high exposures to cancer-causing chemical before they undertake the usually time-consuming task of establishing permanent standards and regulations.

In general, the agencies should continue their efforts to develop carcinogen regulatory programs which will effectively protect public health without imposing unnecessary or unreasonable burdens upon the economy. In this process they should ensure that their actions are consistent and coordinated, and that the public has substantial opportunity to contribute.

Annex A to Statement on Regulation of Chemical Carcinogens

Federal Agencies Having Primary Roles in the Regulation of Chemical Carcinogens

Regulatory Agencies

Consumer Product Safety Commission (CPSC)

The purpose of the Consumer Product Safety Commission is to protect the public against unreasonable health and injury risks from consumer products; to assist consumers to evaluate the comparative safety of consumer products; to develop uniform safety standards for consumer products and minimize conflicting State and local

regulations; and to promote research and investigtion into the causes and prevention to product-related deaths, illnesses, and injuries.

The Commission assesses the health risks associated with the use of potential carcinogens in consumer products, and has the authority to restrict or prohibit uses considered to provide an unreasonable risk. It also sponsors some research on carcinogenic substances.

The statutes defining CPSC's responsibilities for regulating carcinogens and other toxic substances include The Federal Hazardous Substances Act (1966), The Consumer Product Safety Act (1972), and The Poison Prevention Packaging Act (1970).

Environmental Protection Agency (EPA)

The purpose of the Environmental Protection Agency is to protect and enhance our environment by controlling pollution in the areas of air, noise, radiation, and toxic substances.

EPA regulates potential carcinogens under several statutes, controlling their release into the air and water, their disposal as solid or liquid wastes on land and in the ocean, their occurrence in drinking water supplies, and their use in pesticides. It also is responsible for developing national strategies for controlling the general production and use of such substances and with coordinating these activities with other agencies. EPA also conducts and sponsors research on how chemicals are transported through and modified by the environment and on the carcinogenic potential of selected substances.

The statutes defining responsibilities for regulating carcinogens and other toxic substances include The Toxic Substances Control Act (1976), The Clean Air Act (1970, amended 1977), The Clean Water Act (as amended in 1972 and 1977), The Safe Drinking Water Act (1974, amended 1977), The Federal Insecticide, Fungicide, and Rodenticide Act (1947, amended 1972, 1975, 1978), The Act of July 22, 1954 (codified as section 346(a) of the Food, Drug, and Cosmetic Act) (1954, amended 1972), and The Resource Conservation and Recovery Act (1976).

Food and Drug Administration (FDA) (U.S. Department of Health, Education and Welfare).

The purpose of the Food and Drug Administration is to protect the health of the Nation against impure and unsafe foods, drugs, cosmetics, and other potential hazards.

FDA regulates the composition, quality, and safety of foods, food additives, food contaminants, colors, human and animal drugs, medical devices, and cosmetics. It must, by law, prohibit the use of any food additive found to be a carcinogen. It also conducts and sponsors research on the carcinogenicity of food contaminants, cosmetics, and other substances, and on the development of better methods for detecting the carcinogenic potential of regulated substances. FDA also develops methods to detect the presence of these substances in consumer products and monitors them to ensure their compliance with regulations.

The statutes defining FDA's responsibilities for regulating carcinogens and other toxic substances include The Food, Drug, and Cosmetic Act (1938) with its amendments pertaining to food additives (1958), color additives (1960), new drugs (1962), and new animal drugs (1968); The Fair Packaging and Labeling Act (1976); and The Public Health Service Act (1944).

Food Safety and Quality Service (FSQS) (U.S. Department of Agriculture).

The purpose of the Food Safety and Quality Service is to provide assurance to the consumer that foods are safe, wholesome, and nutritious; that they are of good quality; and that they are informatively and honestly labeled; and to provide assistance to the marketing system through purchase of surplus food commodities and those needed in the National Food Assistance Programs.

The FSQS inspects and controls the production of meat, poultry, eggs, and dairy products to ensure, among other things, that they are not contaminated with carcinogenic substances. The statutes defining FSQS's responsibilities for regulating carcinogens and other toxic substances include The Federal Meat Inspection Act (1967), The Poultry Products Inspection Act (1957), and The Egg Products Inspection Act (1970).

Occupational Safety and Health Administration (OSHA) (U.S. Department of Labor).

The purpose of the Occupational Safety and Health Administration is to ensure, so far as possible, safe and healthful working conditions for every working man and woman in the Nation.

OSHA assesses the health risks to workers associated with the use of carcinogenic substances in the workplace, and regulates the release of and concentration of carcinogenic substances that can occur in the workplace. It also monitors job related illnesses and informs workers of the potential hazards associated with specific substances found in the workplace.

The statute defining OSHA's responsibilities for regulating carcinogen and other toxic substances is the Occupational Safety and Health Act (1970).

Materials Transportation Bureau, Federal Railroad Administration, U.S. Coast Guard (U.S. Department of Transportation).

Among its many other activities, the Department of Transportation also has the responsibility to protect the public's health and safety when hazardous materials are transported.

The Materials Transportation Bureau was established to coordinate the agency's overall responsibilities concerning the regulation of hazardous materials transportation. It has the primary responsibility for promulgating regulations for all modes of transportation and for all aspects of regulating intermodal transportation of such substances. Among their other activities, the Federal Railroad Administration implements the regulations concerning the transportation of explosives and other dangerous articles by railroads, the U.S. Coast Guard implements the regulations covering the transportation of hazardous substances by water, and the Federal Highway Administration implements them for highways.

The major statutes defining the agency's responsibilities are The Hazardous Materials Transportation Act (1970), The Federal Railroad Safety Act (1979), The Port and Waterways Safety Act (1972), and The Dangerous Cargo Act (1952).

Research Institutes

National Cancer Institute (NCI) (National Institutes of Health, U.S. Department of Health, Education and Welfare).

The purpose of the National Cancer Institute is to expand scientific knowledge on the causes, prevention, diagnosis, and treatment of cancer in order to eliminate this disease as a national health problem.

NCI conducts and sponsors research on the origin, causes, and spread of cancer and on methods for diagnosing, preventing, and treating cancer. It conducts animal tests and epidemiological studies to identify carcinogens and research directed at developing improved testing methods for identifying carcinogens. It also, through its cancer control element, applies research findings to prevent, control, and treat human cancer and to rehabilitate cancer victims.

National Institute of Environmental Health Sciences, (NIEHS) (National Institutes of Health, Department of Health, Education and Welfare).

The purpose of the National Institute of Environmental Health Sciences is to

provide information on the impact of environmental factors on human health in order to aid those agencies charged with devising and instituting control or therapeutic measures.

NIEHS supports and conducts basic research focused upon the interaction between man and potentially toxic or harmful agents in his environment. This research is concentrated upon recognizing, identifying, and investigating the environmental factors that may have deleterious effects on population groups, on quantifying those efforts, and on understanding the mechanisms of action of toxic agents on biological systems.

National Institute of Occupational Safety and Health (NIOSH) (Center for Disease Control, Public Health Service, U.S. Department of Health, Education and Welfare).

The purpose of the National Institute of Occupational Safety and Health is to conduct research on and develop standards for occupational safety and health to ensure safe and healthful working conditions for all working people.

NIOSH conducts epidemiological, laboratory testing, exposure and source characterization studies on potential carcinogens found in the workplace. It also develops methods for monitoring the presence of carcinogens and for testing worker protection equipment and makes recommendations to OSHA regarding standards that should be applied to control workplace exposure and protect workers' health.

Annex B to Statement on Regulation of Chemical Carcinogens

Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks

A Report Prepared by the Interagency Regulatory Liaison Group Work Group on Risk Assessment

Annex B is filed with the Office of the Federal Register as part of the original document. See 44 FR 39858, July 6, 1979.

Annex C to Statement on Regulation of Chemical Carcinogens

Interagency Coordination Efforts Currently Relevant to the Regulation of Carcinogens

There are a number of different mechanisms in existence for the purpose of promoting coordination among the agencies. Some of these have been established legislatively, others are imposed by the President or his staff, and others have been created by the agencies themselves.

An example of legislative coordination mechanisms would include provisions in several of the health and safety statutes which require the implementing agency to consider the views of or work done by other agencies and the appropriateness and advantage of deferring to other agencies authorities to address a particular problem.[1]

Another example of legislated coordination is the National Cancer Advisory Board (NCAB) established by the National Cancer Act of 1971 (as amended) to assist the Director of the National Cancer Institute with respect to a "National Cancer Program," and to review applications for funds to conduct cancer research. The 1978 amendments to this Act included the heads of NIOSH, NIEHS, FDA, EPA, CPSC, and the Secretary of Labor as *ex officio* members of this board. Other members of the board (18 are appointed by the President and 11 are *ex officio* members) represent the academic world, the public, and other Federal agencies. The NCAB not only receives and reviews reports on progress and plans from the National Cancer Institute, but has also established several subcommittees to analyze and report on particular issues of interest to the board. The National Cancer Advisory Board, composed of government and nongovernment representatives, advises NCI on policies regarding cancer research and other related issues, and thereby serves a coordinating function both within the government, and between the government and people outside government.

The Executive Office of the President, through its review and oversight functions, helps to coordinate the various cancer-related programs administratively. Such coordination particularly occurs with the budget and program reviews carried out annually by the Office of Management and Budget. The preparation of the Administration's proposed budget and the review and approval of proposed legislation both involve interagency coordination, and are necessarily fundamental steps in defining and coordinating all aspects of the government's cancer policy.

The Administration will also initiate special policy coordination reviews. An example is the Toxic Substances Strategy Committee (TSSC) which was established by the President in his 1977 Environmental Message. This committee, which is in the process of completing its work, was established (1) to eliminate overlaps and fill gaps in the collection of data on toxic chemicals, and (2) "to coordinate Federal research and regulatory programs affecting them."[2] The committee is chaired by the Chairman of the Council on Environmental Quality (in the Executive Office of the President), and includes 17 agencies involved in the effort to control toxic substances. The TSSC adopted a work plan and established work groups to deal with many of the issues involved in regulating carcinogens.[3] The reports of the work groups were summarized in the committee's final report which has been released in draft form for public comment.[4]

A third example of such coordination efforts is the Regulatory Council established by President Carter in October 1978. This council, composed of 35 departments and agencies with significant regulatory responsibilities, was created to coordinate the activities of the regulatory agencies and to assist them in implementing their regulatory programs in a consistent and cost-effective manner. Nineteen independent regulatory agencies also contribute to the council's activities in various ways. The first responsibility of the council was to prepare a "regulatory calendar" which summarized the important Federal regulations under development.[5] The council will also undertake various other policy and procedural coordination efforts related to the regulation of carcinogens.

An example of coordination efforts instituted by the agencies themselves is the Interagency Regulatory Liaison Group (IRLG). This is perhaps the most ambitious of such coordinating efforts. It was formed in 1977 by four agencies—the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, and the Occupational Safety and Health Administration, and was expanded in December, 1978, to include the Food Safety and Quality Service of the Department of Agriculture. All five agencies are responsible for regulating hazardous substances—protecting people from excessive exposure to such substances in their food, drugs, consumer goods, workplace, and in the air and water. The IRLG established a series of work groups and task forces to deal with many of the regulatory and research issues which affect the agencies, both at headquarters and in each of the 10 Federal regions. These groups have been

[1] For example, section 9 of the Toxic Substances Control Act and section 29 of the Consumer Product Safety Act.

[2] The President's Message to the Congress on the Environment, May 23, 1977, Section I.

[3] (42 FR 57866).

[4] (44 FR 48134, Part IV).

[5] The first calendar was published on Wednesday, February 28, 1979 (44 FR 11388).

carrying out projects which are directly related to ensuring better coordination of carcinogen regulatory programs.

A closely related effort, the National Toxicology Program (NTP), was established in November, 1978, by the Department of Health, Education, and Welfare to coordinate the activities of HEW's several institutes and bureaus devoted to toxicological research and testing. The broad goal of this program is to strengthen HEW's activities in the testing of chemcials of public health concern, as well as in the development and validation of new and better integrated test methods. At present the NTP is comprised of the relevant activities of the Food and Drug Administration (FDA), the National Cancer Institute (NCI), the Center for Disease Control/National Institute for Occupational Safety and Health (NIOSH), and the National Institute of Environmental Health Sciences (NIEHS). In order to ensure that these activities within HEW are coordinated with the needs and activities of the regulatory agencies, the original four IRLG agencies are members of the program's executive committee.

The coordinating programs described above are some of the more important and broader ranging efforts. However, a number of less extensive coordinating mechanisms have been established to deal with specific issues. These, and the particular activities of the broader programs, are described in the remainder of this annex.

Identifying Carcinogens

Much of the effort to coordinate carcinogen policies has focused on the scientific issues involved in testing carcinogenic substances and assessing carcinogenic risks. As a result, this is the general area in which most progress has already been made. The IRLG has focused many of its activities in this area and the National Toxicology Program was established to bring about further coordination. In addition, there have been a number of administrative and legislative efforts at coordination that have focused in this area.

Research

A number of different government agencies have developed significant research programs to gain a better understanding of carcinogens and the way in which they affect humans. The largest programs are sponsored by the National Cancer Institute, the National Institute of Environmental Health Sciences, the National Institute of Occupational safety and Health, the Environmental Protection Agency, the Food and Drug Administration, the Department of Energy, the Department of Defense, the Department of Commerce, and the Department of Agriculture.

According to one tabulation, these agencies spent a total of approximately $400 million dollars in FY 1977 in research related to toxic substances, a large proportion of which was focused on the problem of cancer and carcinogens.[6]

These research programs tended to develop in a largely uncoordinated fashion, but during the past year there have been several major efforts to gain a better understanding and improve the coordination of different agencies' research programs. The first of these was the IRLG Research Planning Work Group. This group tabulated all the toxics research being sponsored by the four IRLG agencies plus three research institutes (NCI, NIEHS, and NIOSH) and analyzed this information to try to identify areas of overlap or particular gaps in the research programs. They did not isolate cancer-related research but analyzed it along with their other toxics research. They discovered few instances of possible research overlaps, but did identify some potentially serious research gaps.

A similar effort was initiated by the Toxic Substances Strategy Committee covering more agencies than the seven included in the IRLG's effort. This analysis was based upon the information collected by the IRLG Research Planning Work Group, the Smithsonian Institution's Scientific Information Exchange System, and special submissions by individual agencies. Again, there was no specific focus on cancer-related research, although it was included with the other toxics research. Like the IRLG effort they found little evidence of duplication, but some possibly significant gaps.

Concern about the budgetary coordination of toxics-related research led the Office of Management and Budget to initiate a cross-agency "Zero-Based Budget" (ZBB) exercise for the 1980 budget year. This exercise included the same agencies in the IRLG effort (the four IRLG agencies, NCI, NIEHS, and NIOSH). For this exercise each agency divided its research into "decision units" which were ranked jointly by all the agencies according to commonly agreed upon criteria relating primarily to the quality and importance of the research. Again, there was not particular focus on cancer-related research, and no effort was made to obtain a specific understanding of what was being done in this subject area.

The fourth effort, the National Toxicology Program, is focusing more on developing an ongoing management system for planning and coordinating research done under different auspices within HEW. This program was given authority to plan use of part of the research budget for four agencies—NCI, NIEHS, NIOSH, and FDA. The program does not cover all of the cancer-related research, but does include most of that testing within HEW directly relevant to the identification of carcinogens. In order to ensure that the HEW research plans are coordinated with the research and information needs of other agencies, three of these agencies (EPA, OSHA, and CPSC) are members of the Executive committee which reviews the program plans.

The National Toxicology Program is related to a broader Department of Health, Education and Welfare coordination effort, the Committee to Coordinate Toxicology and Related Programs. This committee provides advice to the department on toxicological activities and serves to coordinate the exchange of information and the sharing of resources among agencies in the department. Although established within HEW, it includes liaison members from most other Federal agencies having significant interests in toxicology, and thus serves as a focus for more general information exchange and coordination.

Two other research planning, advising, and coordinating efforts also deserve mention. These include the National Cancer Advisory Board and the NCI Clearinghouse for Environmental Carcinogens. Each of these efforts is primarily concerned with the programs and activities of the National Cancer Institute. However, each accomplishes some important coordination among agencies. Their membership includes representatives from other agencies and the public. The National Cancer Advisory Board reviews all research applications submitted to the National Cancer Institute, and, in addition has a subgroup focusing upon environmental carcinogenesis. The NCI clearinghouse, which includes even broader representation from other agencies, is concerned with planning and advising on test methods and priorities and with evaluating the results of NCI's testing and associated risk assessments.

Testing Priorities

In the past, each of the agencies doing carcinogenesis testing tended to set its

[6] Toxic substances Strategy Committee, "Toxic Substances: A Review of Federal Research, Development, Testing and Monitoring Activities," August 1978.

own testing standards and establish its own priorities.

Some consistency in priority setting was accomplished through various advisory committees, of which NCI's Clearinghouse on Environmental Carcinogenesis was perhaps the most important. Although NCI and other testing agencies did attempt to respond to regulatory needs when they were expressed, the regulatory agencies often did not have strong inputs to those committees.

The creation of the National Toxicology Program has established a more vigorous forum for coordinating testing priorities. This program is developing criteria for setting testing priorities which reflect the needs of both the regulatory agencies and the research institutes. The regulatory agencies, represented on the program's Executive Committee, will also have a stronger role in selecting the specific substances tested for all of the HEW testing programs covered by the NTP.

Another major program established to coordinate testing is the Interagency Toxic Substances Testing Committee. This committee was established by section 4(e) of the Toxic Substances Control Act of 1977, and includes members from eight agencies involved in regulating toxic substances. Its role is to review current knowledge of the potential toxic effects of different substances, and recommend to EPA which of these substances should receive highest priority for testing. EPA then reviews these recommendations in terms of the priorities it will establish for tests to be conducted by industry under section 4 of the Act.

The National Toxicology Program and the Interagency Toxic Substances Testing Committee substantially improve the amount of coordination occurring on setting testing priorities. The National Toxicology Program will serve to coordinate testing priorities among the research agencies and the regulatory agencies, and the testing committee will serve to coordinate priorities between the government and private sector. Coordination between these two efforts results from having the same agencies represented on both.

Conduct of Studies

Typically, when laboratory testing is as diffused and is changing as rapidly as it is in the case of cancer research, a number of different experimental methods tend to come into use. To a large extent this is desirable, for it allows for development of new equipment and techniques, and often results in discovery of more efficient and accurate procedures. However, for the purpose of making regulatory decisions, the agencies must have confidence in the quality of the testing, and in the consistency of test results.

Efforts to promote such quality and consistency can take several forms. The first stage is usually the development of suggested analytical methods for use within an agency. Some of these will be adopted by other agencies as well. For instance, the National Cancer Institute has prepared manuals containing recommended testing methods for determining carcinogenesis. The National Academy of Sciences, the World Health Organization, FDA, and EPA have also prepared such manuals.

As more experience is gained with the different methods, the agencies begin to agree on what the preferred methods are. In the second stage of coordination, the different agencies adopt consistent methods. Thus, HEW prepared regulations defining Good Laboratory Practices, and during the past year these have also been accepted by EPA, CPSC, FDA, and OSHA. This has represented a significant step forward in consistency and quality control.

An associated problem is being addressed by the IRLG Work Group on Testing Standards and Guidelines. This work group is addressing the problem that would be created if the different agencies where to require slightly different testing procedures, all of which might be equally acceptable from the standpoint of quality control, to be used in conjunction with their specific regulatory programs. These differences can cause confusion and unnecessary costs by requiring a firm to undertake somewhat different tests on the same substance when trying to satisfy different regulatory requirements. The IRLG Testing Standards and Guidelines Work Group is attempting to avoid this problem by developing one set of testing standards that will be accepted by all the IRLG agencies.

The IRLG Epidemiology Work Group is attempting to accomplish some of the same improvements with respect to epidemiological studies. However, this group is focusing more on defining the minimal characteristics of epidemiological studies than in defining study protocols similar to those being developed by the Testing Standards and Guidelines Work Group.

Similar coordination of testing methods is occurring in the international context through the Organizations for Economic Development and, to a lesser extent, United Nations' associated organizations such as the World Health Organization and the Food and Agriculture Organization.

Identifying Carcinogens

With the profusion of different testing and regulatory programs, there has been some concern that different agencies will make inconsistent assessments of the potential carcinogenicity of a particular substance. This concern has created a substantial interest during the past 2 years in developing procedures for ensuring that these qualitative assessments of risks are consistent.

One of the more ambitious of these efforts was the report prepared by the IRLG Risk Assessment Work Group entitled "Scientific Bases for the Identification of Potential Carcinogens and the Estimation of Risks."[7] This document represents the judgment of the agency scientists on the scientific concepts and methods used to identify and evaluate substances that pose a risk of cancer to humans. The document describes the bases for making a qualitative evaluation of whether a particular substance presents a carcinogenic hazard, and how the results of epidemiological studies and animal bioassays, along with other types of information, are to be used in making that evaluation. The document is currently receiving public and scientific review and comment.

Several other efforts in the government have also addressed this issue. The National Cancer Advisory Board's Committee on Environmental Carcinogenesis is preparing a document which is similar to that prepared by the IRLG. The Office of Science and Technology Policy, in the Executive Office of the President, has also prepared a similar document.

Another step to promote consistency is the effort by the National Cancer Institute to disseminate the results of its carcinogen assessments. This is done through the Clearinghouse on Environmental Carcinogenesis and via an annual report on Carcinogens NCF is required to make to Congress under a recent amendment to the National Cancer Act.[8]

Assessing Human Risk

Most of the government's attention on issues relating to the assessment of human risk has been focused on the appropriateness and methodologies for making quantitative risk estimates.

A number of different estimation techniques have been proposed and used without general agreement about their accuracy and reliability. Because of the substantial uncertainties

[7] (44 FR. 39858–39879) and *Journal of the National Cancer Institute*, Vol. 63, No. 1 (July, 1979), pp. 241–268.

[8] Pub. L. 95–622, Title II, Part E, section 262.

involved, it is probably not possible to determine whether a specific estimation technique, is correct. It is nevertheless desirable for all agencies using quantitative estimates in their regulatory programs to make such estimates consistently.

A major purpose of the IRLG Risk Assessment Work Group was to provide a framework for this consistency. Their report ("Scientific Bases for the Identification of Potential Carcinogens and Estimation of Risks") describes some methods that are used in making quantitative estimates of the Carcinogenic risks posed by a substance if such risk estimates are appropriate or required. The report discusses the various quantitative estimation techniques currently being used, the various problems associated with such estimation techniques, and recommends that the agencies include the results from onr particular technique when undertaking quantitative risk estimations. This document should serve both to insure that the agencies interpret data consistently and to reduce the public's uncertainty about the scientific and policy judgments that the agencies make in their interpretations.

Regulatory Policies

Until recently, most efforts to coordinate agency actions in regulating carcinogens focused upon the scientific aspects of the regulatory programs—the testing of substances, the assessment of hazards, the estimation of risks. As these become better coordinated,the emphasis is shifting—particularly with the establishment of the IRLG and The Regulatory Council—to coordinating government intervention as well. These efforts are dealing with issues such as setting regulatory priorities, agreeing upon what analyses ought to be undertaken to support regulatory decisions, coordinating specific regulatory actions, and coordinating compliance monitoring and enforcement.

Regulatory Priorities

The IRLG regulatory Development Work Group is responsible for the major efforts to coordinate regulatory priorities among agencies. It has set up a process whereby each agency is notified immediately as soon as one of the agencies begins to consider regulating a particular substance. With this arrangement the agencies are aware of one another's priorities and can reevaluate their own priorities in view of other agency plans.

Decision Analyses

The major coordination on decision analyses has resulted from Executive Order 12044 issued by President Carter[9] and The National Environmental Policy Act.

The National Environmental Policy Act requires each agency to analyze the environmental implications of those actions which may have a significant impact upon the human environment. The Council on Environmental Quality implements these provisions and has issued regulations governing the preparation and processing of environmental impact statements.[10] However, there is some variation among agencies regarding how and when they undertake environmental impact assessments related to regulatory activities.

Executive Order 12044 applies to all regulations which potentially have a major economic impact issue by agencies within the Executive Branch. It requires agencies proposing these regulations to undertake regulatory analyses which are published for review and comment. The Council on Wage and Price Stability and the Office of Management and Budget have prepared guidelines regarding the content of these analyses and the way in which they should be done.[11]

Selected regulatory analyses are also reviewed by the Regulatory Analysis Review Group (RARG). This group is chaired by the Chairman of the Council of Economic Advisors and is made up of representatives from the Office of Management and Budget and the principal Executive Branch economic and regulatory agencies. RARG reviews up to 20 regulations a year (not more than 4 from any one agency) which it believes may have a significant impact upon the economy. The implementation of Executive Order 12044 has resulted in substantial consistency with respect to the issues of when economic analyses will be conducted and what they should contain.

The IRLG Regulatory Development Work Group is also concerned with what analyses are done and how they are coordinated among the IRLG agencies. The IRLG also has a group of Senior Economists to coordinate the economic analyses carried out by different agencies and to develop common analytical tools and data bases that could be used in these analyses.

Regulatory Actions

The type of actions that regulatory agencies can take and the considerations and principles that are to be taken into account in deciding upon these actions are largely specified by Congress in the statutes establishing the various regulatory programs. However, there are several major efforts to coordinate the agencies' actions within these statutory constraints.

The IRLG agencies are attempting to coordinate their regulatory actions through the Regulatory Development Work Group. This work group has identified the hazardous substances which two or more of the IRLG agencies are currently considering regulating. For each of these substances the work group has established a special subgroup composed of key officials from the relevant agencies. These subgroups have the responsibility for coordinating the actiities of the various agencies, ensuring that they are consistent with one another and informing the public on what each of the agencies is doing. As part of this effort they have prepared a document entitled *Hazardous Substances* which lists 24 substances; summarizes what is known about their health effects, production, and use; lists the regulatory authorities under which action is being taken or considered; indicates certain regulatory issues that have arisen; and sets forth the agencies' proposed schedule of regulatory activities.[12] The information in this document is being updated semi-annually by an IRLG publication entitled *Regulatory Reporter.*[13]

The Regulatory Council's "regulatory calendar" should also serve as an important coordinating mechanism.[14] The calendar contains a listing of all the important rules and regulations that the agencies are working on, the benefits and costs anticipated to result from the agency's regulatory action, and the alternative actions being considered. The preparation and public release of this calendar should serve to increase the consistency of agency interventions. In addition, the staff of The Regulatory Council will examine the submissions to

[9]Executive Order 12044, "Improving Government Regulations," issued by the President on March 23, 1978 (42 FR 59790).

[10]43 FR 55978 (November 29, 1978, Pt. 6).

[11]Memorandum from Wayne G. Grinquist, Associate Director, Management and Regulatory Policy, Office of Management and Budget to the "Heads of Departments and Agencies," Subject: Guidance for Regulatory Analysis, dated November 21, 1978.

[12]Interagency Regulatory Liaison Group, *Hazardous Substances* (Washington, D.C., U.S. Government Printing Office, December 1, 1978).

[13]Interagency Regulatory Liaison Group, *Regulatory Reporter,* Vol. I, Issue 1, published June, 1979 (Washington, D.C., U.S. Government Printing Office).

[14]The first calendar was published in the *Federal Register* on February 28, 1979, a 44 *Federal Register* 11388–11516.

identify possible conflicts, inconsistencies, or instances of overlap.

Executive Order 12044 (and NEPA, where applicable) also requires agencies to analyze proposed interventions and the reasonable alternative means of intervention in the economic (or environmental) impact statements they are required to prepare. The economic impact statements are reviewed by the Council on Wage and Price Stability which attempts, among other things, to identify any inconsistencies among the agencies. Where potentially serious inconsistencies appear, the proposed intervention may be referred to the Regulatory Analysis Review Group for more intensive consideration.

The potential for coordination and the benefits that can result if the agencies do work closely together were clearly demonstrated in the regulation of chlorofluorocarbons.

Chlorofluorocarbons were at one time used extensively as propellants in aerosol sprays, among other uses. They were found, however, to be causing a potentially serious depletion of ozone in the atmosphere.

Various scientific studies demonstrated that such depletion could have very serious long-range impacts on health and the environment. Three agencies, EPA, CPSC, and FDA, had partial jurisdiction. When it became evident that there was a potentially serious problem, these agencies met together to consider possible regulatory responses. As a result, they developed a joint regulatory approach that embodied agreement on the actions that each of the agencies would take and the timing of these actions. This arrangement resulted in one of the agencies (CPSC) agreeing to take no action at all because it would have done little more than duplicate what the regulations of the other two agenices would accomplish. This cooperation enabled the three agencies to announce jointly what each of them would be doing and when, eliminating any uncertainty about the specific interventions that were planned. The agencies also jointly undertook to sponsor additional research on the problem to determine whether further actions with respect to nonaerosol uses of cloroflurocarbons were needed and how any such intervention could most efficiently occur.

Monitoring

Ambient and compliance monitoring are important aspects of any regulatory program. Ambient monitoring involves identifying the existence of potential carcinogens in places—e. g., the air, food products, consumer products, the workplace—where people may be exposed to them. Compliance monitoring involves determining whether sources of these contaminants are complying with regulations to control people's exposure to such substances.

In the past, the main coordination of monitoring has resulted from the regulatory agencies using data collected by other data-collecting agencies such as HEW's Center for Health Statistics. Recently, the coordination of ambient monitoring has been looked at in greater detail by an interagency committee established by the Council on Environmental Quality to review environmental data and monitoring, by the Interagency Toxic Substances Data Committee, by the IRLG Information Exchange Work Group, and by the Office of Management and Budget. Various efforts have also been undertaken to coordinate compliance monitoring through the IRLG Compliance and Enforcement Work Group and various regional IRLG organizations.

The President established the CEQ Interagency Task Force on Environmental Data and Monitoring in his Environmental Message of May, 1977.[15] This task force has undertaken an extensive review of the government's efforts to monitor air pollutants, water pollutants, and other environmental characteristics. However, it has deferred consideration of carcinogen and toxics monitoring to the Interagency Toxic Substances Data Committee.

The Interagency Toxic Substances Data Committee was established by section 4(e) of The Toxic Substances Control Act. Its purpose is to facilitate the exchange of information on toxic substances among agencies. Although the focus is on information exchange, it must also consider who should collect the information and how they should collect it. The issues being addressed by this interagency committee are closely coordinated with those being addressed by the IRLG Information Exchange Work Group, which serves a similar role among the IRLG agencies. However, neither of these efforts has yet led to an intensive effort to improve the coordination of ambient monitoring activities by the different agencies.

The coordination carried out by the Office of Management and Budget occurs primarily with respect to the budget submissions of the individual agencies and to the clearance of the forms which will be used to collect the information. The coordination of data collection efforts is further emphasized in The Regulatory Reform Act of 1979 submitted to the Congress by the President in March, 1979.

There is, however, a significant increase in the coordination of compliance monitoring by the agencies. In the agencies' regional offices, inspectors from each agency are being educated about the programs of the other agencies. A process for referring possible violations of another agency's regulations to that agency has also been instituted. The IRLG Compliance and Enforcement Work Group has developed the educational materials and the forms being used in this effort. This work group is also exploring the possibility of such further coordination as joint inspections (where inspectors from different agencies inspect a site jointly) and cross-over inspections (where the inspectors from one agency inspect for other agencies as well as their own).

An important contribution to such coordination may result from a demonstration project in New Jersey conducted by the Environmental Protection Agency in association with the IRLG Information Exchange Work Group. A serious hurdle to better coordination has been that the different agencies, and often different programs within the same agency, do not use the same means for identifying individual facilities being controlled. The New Jersey project is exploring the feasibility of developing a "common code" system of identifying facilities. If such codes were used to identify facilities and sites, one could quickly identify how each agency is involved with any particular facility or site, when any agency last inspected the facility, whether any and what type of violations have been found, etc.

Enforcement

The primary coordination of enforcement policies is occurring through the IRLG Compliance and Enforcement Work Group and IRLG cooperation among the regional offices. In addition to the training of inspectors and the referral of violations, there has been increased mutual support of enforcement actions through the sharing of laboratory facilities, information, and expert witnesses among agencies, and by the agencies undertaking special investigations for one another.

Agency coordination is also important in responding to emergency episodes, such as spills or plant accidents, involving the release of toxic chemicals. The Toxic Substances Strategy Committee established a special subcommittee to address this problem. It has concentrated upon improving the response capacity at the State and local

[15] The President's Message to Congress on the Environment, May 23, 1977.

levels, better organizing EPA's response system, and achieving better coordination between EPA, the Department of Transportation, and the private sector. In addition, the IRLG agencies have developed, at both regional and headquarters levels, emergency notification schemes and emergency response plans to deal with such episodes. These are currently being integrated with the national response system established by The Clean Water Act (involving the Council on Environmental Quality, the Department of Transportation, and EPA) to respond to oil and hazardous substances spills.

Conclusion

This appendix describes some of the ongoing coordination efforts which are most relevant to the regulation of carcinogens. Additional efforts are also occurring in areas less directly related. Further information about the activities of the major coordinating efforts can be obtained by contacting the following:

Interagency Regulatory Liaison Group, 1111 18th Street, NW. (Room 509), Washington, D.C. 20207.

The Regulatory Council, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20460.

National Cancer Advisory Board, National Cancer Institute, Public Health Service, U.S. Department of Health, Education, and Welfare, 900 Rockville Pike, Bethesda, Maryland 20014.

National Toxicology Program, National Institute of Environmental Health Sciences, Public Health Service, Department of Health, Education, and Welfare, Bethesda, Maryland 20014.

Table 1—Interagency Coordination Efforts

Overall Coordination Efforts

Office of Management and Budget:
- Budget preparation
- Legislative clearance

Toxic Substances Strategy Committee (TSCC)

Regulatory Council

Interagency Regulatory Liaison Group (IRLG)

Committee to Coordinate Toxicology and Related Programs (HEW)

National Toxicology Program (NTP)

National Cancer Advisory Board

Identifying Carcinogens

Research:
- IRLG Research Planning Work Group
- TSSC
- Interagency Toxic Substances Zero Based Budget Analysis
- NTP
- National Cancer Advisory Board
- National Cancer Institute Clearinghouse for Environmental Carcinogens
- IRLG Preventive Health Initiative
- CCTRP
- Interagency Collaborative Group on Environmental Carcinogens

Testing Priorities:
- NTP
- Interagency Toxic Substances Testing Committee
- NCI Chemical Selection Committee

Conduct of Studies:
- Manuals of recommended testing procedures (e.g., NCI)
- Good Laboratory Practices
- IRLG Testing Standards and Guidelines Work Group
- IRLG Epidemiology Work Group
- Various international efforts

Assessing Human Risk:
- IRLG Risk Assessment Work Group
- Office of Science and Technology Policy
- NCI Clearinghouse on Environmental Carcinogens
- Annual Report of NCI
- National Cancer Advisory Board Committee on Environmental Carcinogens

Regulatory Policies

Regulatory Priorities:
- IRLG Regulatory Development Work Group
- TSSC

Decision Analyses:
- National Environmental Policy Act
- Executive Order 12044
- Regulatory Analysis Review Group (RARG)

Regulatory Actions:
- IRLG Regulatory Development Group
- Regulatory Council
- Executive Order 12044

Monitoring:
- Control Data Collection Agencies, Center for Health Statistics
- Interagency Toxic Substances Data Committee
- IRLG Information Exchange Work Group
- Office of Management and Budget
  - Survey clearance functions
  - Budget preparation
- IRLG Compliance and Enforcement Work Group
- IRLG regional activities

Enforcement:
- IRLG Compliance and Enforcement Work Group
- IRLG regional activities
- TSSC
- National Response System

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Wednesday
October 17, 1979

Part V

Department of Commerce

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

DEPARTMENT OF COMMERCE

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Announcement of the granting of accreditation to laboratories for specific tests on thermal insulation materials.

SUMMARY: The Department of Commerce announces the granting of accreditation to laboratories named herein which were determined to be capable of conducting specific tests on thermal insulation materials under the provisions of the National Voluntary Laboratory Accreditation Program (NVLAP). These laboratories are accredited only for the specific tests identified in this notice. Potential users of these laboratories may verify that a laboratory is accredited to conduct a specific test by identifying the NVLAP Code for each test method of interest in Table 1 and by consulting the tabulation of test methods for which each laboratory is accredited in Table 2.

TERM: Accreditation is granted for a one-year term commencing October 12, 1979, and expiring October 11, 1980, except that the accreditation may be revoked before the expiration date due to violation of the criteria or other conditions of the laboratory's accreditation, or otherwise terminated at the request of the laboratory.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Coordinator, NVLAP, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230; (202) 377-2054.

SUPPLEMENTAL INFORMATION

Background

The National Voluntary Laboratory Accreditation Program (NVLAP) was established by notice in the **Federal Register** on February 25, 1976 (41 FR 8163-8168, 15 CFR Part 7, which has been recently redesignated 15 CFR Part 7a). The first laboratory accreditation program (LAP) (NVLAP 01) is for accrediting laboratories that test thermal insulation materials. A final finding of need for this LAP was published on October 12, 1977 (42 FR 55020-55024). The general and specific criteria used in determining the capability of laboratories to test thermal insulation materials were published on January 18, 1979 (44 FR 3886-3906). The testing laboratories which applied for accreditation in response to that announcement have been examined and the resultant determination to grant accreditation are set forth below.

Test Methods for Which Accreditation May Be Granted

A total of 62 test methods have been identified for which laboratory accreditation may be sought. These are identified in Table 1.

Accredited Laboratories and the Test Methods for Which Each is Accredited

A total of 30 laboratories have been accredited to perform one or more of the test methods available in the NVLAP program. An alphabetical listing of the laboratories showing the NVLAP Codes for the test methods for which each laboratory is accredited is shown in Table 2.

Conditions Applicable to Accredited Laboratories

A laboratory which has been accredited may announce its accreditation status in the trade press and in literature to industrial firms which may wish to use its testing services. However, in accordance with the NVLAP procedures (15 CFR 7a.7(c)(3)), the laboratories are required to avoid reference regarding their accreditation and to forbid others utilizing their services from referencing their accreditation in consumer media and in product advertising, or on product labels, containers and packaging, or the contents therein. An accredited laboratory may reproduce its Certificate of Accreditation only in its entirety and only for purposes consistent with the above conditions.

This accreditation shall in no way relieve the laboratories from the necessity of observing and being in compliance with any existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to the operations of the laboratory, including consumer protection and antitrust laws.

Dated: October 12, 1979.

Howard I. Forman,

Deputy Assistant Secretary for Product Standards.

Table 1.—*List of Test Methods for Which Accreditation May Be Sought*

NVLAP code	Test method designation	Short title (property) subtitle (if applicable)
01/C01	ASTM C739 (para. 7.7 in 77 version)	Corrosiveness; cellulosic fiber (loose-fill).
01/C02	HH-I-515 (para. 4.8.5 in D version)	Corrosiveness; cellulosic fiber (loose-fill).
01/D01	ASTM C136	Sieve or screen analysis.
01/D02	ASTM C167	Thickness and density; blanket and batt.
01/D03	ASTM C209 (para. 6 in 72 version)	Thickness board (cellulosic fiber).
01/D04	ASTM C209 (para. 13 in 72 version)	Water absorption, 2 hour; board (cellulosic fiber).
01/D05	ASTM C209 (para. 13 in 72 version) by D1037 (para. 100-106 in 72 version).	Water absorption, 24 hour; board (cellulosic fiber).
01/D06	ASTM C209 (para. 13 in 72 version) by D1037 (para. 107-110 in 72 version).	Linear expansion; board (cellulosic fiber).
01/D07	ASTM C272	Water absorption; core materials.
01/D08	ASTM C302	Density; preformed pipe insulation.
01/D09	ASTM C303	Density; preformed block insulation.
01/D10	ASTM C355	Water vapor transmission; thick materials; desiccant method.
01/D11	ASTM C356	Linear shrinkage; soaking heat; preformed high temperature insulation.
01/D12	ASTM C411	Hot-surface performance; high temperature insulation.
01/D13	ASTM C519	Density; loose-fill (fibrous).
01/D14	ASTM C520	Density; granular loose-fill.
01/D15	ASTM D756	Weight and shape changes; accelerated service (proc. A); plastics.
01/D16	ASTM D756	Weight and shape changes; accelerated service (proc. B); plastics.
01/D17	ASTM D756	Weight and shape changes; accelerated service (proc. E); plastics.
01/D18	ASTM D1622	Apparent density; rigid cellular plastics.
01/D19	ASTM D2126	Response to thermal and humid; aging (proc. B); rigid cellular plastics.
01/D20	ASTM D2126	Response to thermal and humid; aging (proc. D); rigid cellular plastics.
01/D21	ASTM D2126	Response to thermal and humid; aging (proc. E); rigid cellular plastics.
01/D22	ASTM D2126	Response to thermal and humid; aging (proc. F); rigid cellular plastics.
01/D23	ASTM D2842	Water absorption; rigid cellular plastics.
01/D24	ASTM C739 (para. 7.5 in 77 version)	Moisture absorption; cellulosic fiber (loose-fill).
01/D25	HH-I-515 (para. 4.8.3 in D version)	Moisture absorption; cellulosic fiber (loose-fill).
01/D26	HH-I-515 (para. 4.8.1 in D version)	Settled density; cellulosic fiber (loose-fill).
01/F01	ASTM D777 as modified by HH-B-100B	Flammability; paper and paperboard.
01/F02	ASTM E84	Surface burning characteristics; building materials (loose-fill).
01/F03	ASTM E84	Surface burning characteristics; building materials (blanket and batt).
01/F04	ASTM E84	Surface burning characteristics; building materials (board and block).
01/F05	ASTM E136	Noncombustibility; elementary materials.
01/F06	ASTM C739 (para. 10.4 in 77 version)	Flame resistance permanency; cellulosic fiber (loose-fill).

Table 1.—*List of Test Methods for Which Accreditation May Be Sought—Continued*

NVLAP code	Test method designation	Short title (property) subtitle (if applicable)
01/F07	HH–I–515 (para. 4.8.7 in D version)	Critical radiant flux; radiant panel (cellulosic fiber, loose-fill).
01/F08	HH–I–515 (para. 4.8.8 in D version)	Smoldering combustion; cellulosic fiber (loose-fill).
01/S01	ASTM C165	Compressive properties; thermal insulation (proc. A).
01/S02	ASTM C203	Breaking load/flexural strength; preformed block insulation.
01/S03	ASTM C209 (para. 9 in 72 version)	Transverse strength; board (cellulosic fiber).
01/S04	ASTM C209 (para. 10 in 72 verson)	Deflection at specified load; board (cellulosic fiber).
01/S05	ASTM C209 (para. 11 in 72 version)	Tensile strength; parallel to surface; board (cellulosic fiber).
01/S06	ASTM C209 (para. 12 in 72 version)	Tensile strength; perpendicular to surface.
01/S07	ASTM C273	Shear test; sandwich construction.
01/S08	ASTM C446	Breaking load/modulus of rupture; preformed pipe insulation.
01/S09	ASTM D781	Puncture test; paperboard and fiberboard.
01/S10	ASTM D828	Tensile breaking strength; paper and paperboard.
01/S11	ASTM D1621	Compressive properties; rigid cellular plastics (proc. A-crosshead).
01/T01	ASTM C177	Thermal transmission properties; low-temperature guarded hot plate (loose-fill).
01/T02	ASTM C177	Thermal transmission properties; low-temperature guarded hot plate (blanket and batt).
01/T03	ASTM C177	Thermal transmission properties; low-temperature guarded hot plate (board and block).
01/T04	ASTM C236	Thermal conductance; guarded hot box.
01/T05	ASTM C335	Thermal conductivity; pipe insulation.
01/T06	ASTM C518	Thermal transmission properties; heat flow meter (blanket and batt).
01/T07	ASTM C518	Thermal transmission properties; heat flow meter (board).
01/T08	ASTM C518	Thermal transmission properties; heat flow meter (loose-fill).
01/T09	ASTM C653	Thermal resistance (rec. practice); blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (rec. practice); Loose-fill (fibrous).
01/V02	ASTM D591	Starch in paper; qualitative test.
01/V03	ASTM D2020	Mildew (fungus) resistance; paper and paperboard.
01/V04	ASTM E96	Water vapor transmission; thin sheets (proc. A).
01/V05	HH–I–515 (para. 4.8.6 in D version)	Fungus; cellulosic fiber (loose-fill).
01/V06	HH–I–515 (para. 4.8.9 in D version)	Starch; cellulosic fiber (loose-fill).

Table 2.—*Alphabetical List of Laboratories Showing Test Methods for Which Each is Accredited*

Butler Manufacturing Company, Research Center, 135th Street and Botts Road, Grandview, MO 64030.	01/T04, 01/T06, 01/T07.
CertainTeed Corporation, Research and Development Laboratory, 1400 Union Meeting Road, Blue Bell, PA 19422.	01/C02, 01/D01, 01/D02, 01/D08, 01/D09, 01/D13, 01/D25, 01/D26, 01/F01, 01/F05, 01/F07, 01/F08, 01/S01, 01/S08, 01/S09, 01/S10, 01/T01, 01/T02, 01/T03, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V04.
Certified Testing Laboratories, Inc., 1105 Riverbend Road, Dalton, GA 30720.	01/C02, 01/D25, 01/F07, 01/F08, 01/V06.
Commercial Testing Company, Inc., P.O. Box 94, Dalton, GA 30720.	01/C02, 01/D25, 01/F07, 01/F08, 01/T08, 01/V06.
Dynatech R/D Company, 99 Erie Street, Cambridge, MA 02139	01/C01, 01/D24, 01/S01, 01/S02, 01/S11, 01/T01, 01/T02, 01/T03, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/V06.
Dynatherm Engineering, 595 Marshan Lane, Lino Lakes, MN 55014.	01/T04.
DOW Chemical U.S.A., Granville R & D Center, P.O. Box 515, Granville, OH 43023.	01/D07, 01/D10, 01/D18, 01/D23, 01/S02, 01/S11, 01/T07.
Factory Mutual Research, 1151 Boston-Providence Turnpike, Norwood, MA 02062.	01/F02, 01/F03, 01/F04, 01/F06, 01/F07, 01/F08.
Hauser Laboratories, P.O. Box G, Boulder, CO 80306	01/C02, 01/D25, 01/D26, 01/F07, 01/F08, 01/T08, 01/V05, 01/V06.
International Acoustical Testing Laboratory, 2820 Anthony Lane South, Minneapolis, MN 55418.	01/C02, 01/D25, 01/D26, 01/F07, 01/F08, 01/V06.
Jim Walter Research Corporation, 10301 Ninth Street, North, St. Petersburg, FL 33702.	01/D03, 01/D04, 01/D05, 01/D06, 01/D09, 01/D18, 01/D19, 01/D20, 01/D21, 01/D22, 01/D23, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S11, 01/T03, 01/T04, 01/T05, 01/T07.
Johns-Manville R & D Center, P.O. Box 5108, Denver, CO 80217.	01/D02, 01/D03, 01/D04, 01/D08, 01/D09, 01/D11, 01/D12, 01/D13, 01/F02, 01/F03, 01/F04, 01/F05, 01/S01, 01/S02, 01/S03, 01/S06, 01/S08, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V04.
NAHB Research Foundation, Inc., P.O. Box 1627, Rockville, MD 20850.	01/D02, 01/T06, 01/T07, 01/T09.

Table 2.—*Alphabetical List of Laboratories Showing Test Methods for Which Each is Accredited—Continued*

Owens-Corning Fiberglas Corp., Technical Center Laboratory, P.O. Box 415, Granville, OH 43023.	01/C01, 01/C02, 01/D02, 01/D03, 01/D04, 01/D05, 01/D06, 01/D07, 01/D08, 01/D09, 01/D10, 01/D11, 01/D12, 01/D13, 01/D15, 01/D16, 01/D17, 01/D18, 01/D19, 01/D20, 01/D21, 01/D22, 01/D23, 01/D24, 01/D25, 01/D26, 01/F01, 01/F02, 01/F03, 01/F04, 01/F05, 01/F07, 01/F08, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S08, 01/S09, 01/S10, 01/S11, 01/T01, 01/T02, 01/T03, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V02, 01/V03, 01/V04, 01/V05, 01/V06.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 8, Barrington, NJ 08007.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 89, Delmar, NY 12054.	01/D02, 01/T06.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 578, Fairburn, GA 30213.	01/D02, 01/T06.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 15139 Fairfax Station, Kansas City, KA 66115.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, Case Avenue, Newark, OH 43055.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 89, Santa Clara, CA 95052.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 837, Waxahachie, TX 75165.	01/D02, 01/D09, 01/T06, 01/T07.
Louisiana-Pacific Corporation, Pabco Insulation Division, 1110 Sixteen Road, Fruita, CO 81521.	01/T03, 01/T05.
Southwest Research Institute, P.O. Drawer 28510, San Antonio, TX 78284.	01/C01, 01/C02, 01/D24, 01/D25, 01/D26, 01/F02, 01/F03, 01/F04, 01/F05, 01/F06, 01/F07, 01/T04, 01/V05, 01/V06.
Sparrell Engineering Research Corporation, P.O. Box 8, Salem, MA 01970.	01/T01, 01/T02, 01/T03, 01/T08.
Technical Micronics Controls, Inc., P.O. Box 1330, Huntsville, AL 35807.	01/C02, 01/D26, 01/F07, 01/F08, 01/T01, 01/V05.
Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062.	01/C01, 01/C02, 01/D01, 01/D02, 01/D03, 01/D04, 01/D05, 01/D06, 01/D08, 01/D09, 01/D13, 01/D14, 01/D18, 01/D24, 01/D25, 01/D26, 01/F02, 01/F03, 01/F04, 01/F06, 01/F07, 01/F08, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S08, 01/S11, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V02, 01/V03, 01/V05, 01/V06.
Underwriters Laboratories, Inc., 1655 Scott Blvd., Santa Clara, CA 95050.	01/D13, 01/F02, 01/F03, 01/F04, 01/F06, 01/F07.
United States Testing Company, Inc., 1415 Park Avenue, Hoboken, NJ 07030.	01/C01, 01/C02, 01/D10, 01/D24, 01/D25, 01/D26, 01/F02, 01/F03, 01/F04, 01/F05, 01/F06, 01/F07, 01/F08, 01/T06, 01/T07, 01/T08, 01/V04, 01/V05, 01/V06.
United States Testing Company, Inc., California Branch Laboratory, 5555 Telegraph Road, Los Angeles, CA 90040.	01/C02, 01/D10, 01/D21, 01/D25, 01/D26, 01/F02, 01/F04, 01/F05, 01/F07, 01/F08, 01/V04, 01/V06.
United States Testing Company, Inc., Tulsa Branch Laboratory, 1341 North 108 East Avenue, Tulsa, OK 74116.	01/C02, 01/D10, 01/D18, 01/D25, 01/D26, 01/F08,, 01/V05, 01/V06.

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federal register

Wednesday
October 17, 1979

Part VI

Consumer Product Safety Commission

Environmental Protection Agency

Commercial and Industrial Use of Asbestos Fibers and Consumer Products Containing Asbestos

CONSUMER PRODUCT SAFETY COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

Commercial and Industrial Use of Asbestos Fibers and Consumer Products Containing Asbestos; Statement of Policy on Coordination of Regulatory Activities

AGENCIES: Consumer Product Safety Commission and Environmental Protection Agency.

ACTION: Joint Statement on Coordination of Regulatory Activities

This issue of the **Federal Register** contains two Advance Notices of Proposed Rulemaking (ANPRM) regarding exposure to asbestos. The Notices are being issued by the Consumer Product Safety Commission (CPSC) and the Environmental Protection Agency (EPA). Both agencies have taken previous regulatory action to control human exposure to asbestos. Even with these actions, both continue to be concerned that human exposure to asbestos from many sources may present an unreasonable health risk. The purpose of this joint statement is to explain the interrelationship of the proposed regulatory efforts by the two agencies and to assure the public that these investigations and possible resulting regulations will be coordinated, compatible and nonduplicative.

EPA has authority to regulate asbestos under a number of laws it administers. In the ANPRM appearing in this issue, EPA describes a regulatory investigation using the authority provided by the Toxic Substances Control Act (TSCA, 15 U.S.C. 2601). Under TSCA, EPA may regulate any chemical substance whose manufacture, processing, distribution in commerce, use and/or disposal presents an unreasonable risk of injury to human health or the environment.

CPSC administers two statutes under which it is empowered to regulate asbestos in consumer products. Under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051), CPSC has the general responsibility to protect the public from unreasonable risks of injury, illness, or death associated with consumer products, and may take action against specific products presenting a substantial product hazard. Under the Federal Hazardous Substances Act (15 U.S.C. 1261), CPSC may regulate hazards involved in the presence or use of toxic and other hazardous substances in the household.

The EPA Advance Notice of Proposed Rulemaking describes the Agency's broad effort to systematically gather information on asbestos exposure sources and to evaluate health risk from these sources based on the "life cycle" concept. In the life cycle analysis, the cumulative risk from exposure to asbestos is examined from primary processing through end use and disposal. The CPSC Advance Notice describes a narrower approach to the investigation of possible health risks that may be associated with the use of asbestos in a number of consumer products.

The Agencies recognize that in order to expeditiously and effectively provide public health protection from certain asbestos-containing products, there may be a need for remedial actions individually tailored to specific products or uses as well as broader controls. For example, the Agencies anticipate situations where CPSC's authority may enable it to reduce consumer exposure to asbestos-containing products pending more general proceedings initiated under EPA's broader program.

Through close cooperation in our regulatory endeavors, EPA and CPSC hope to achieve the following three objectives. The first is to significantly reduce unreasonable human health risk from exposure to asbestos through complementary actions. The second is to reduce potential reporting burdens on industry by coordinating information gathering under our respective statutory authorites. We plan to share all available data, while maintaining the confidentiality of business information in accordance with applicable law. Third, to avoid inconsistent or needlessly burdensome regulations, each Agency's regulatory actions (e.g., rules, bans, recalls) that may result from these investigations will be developed in close consultation with the other agency.

The initiatives described here are illustrative of the efforts of CPSC and EPA to further the goals of the Interagency Regulatory Liaison Group (IRLG). The IRLG was established in 1977 to promote better coordination among the major health and safety regulatory agenices.

Dated: October 10, 1979.

For the Consumer Product Safety Commission:

Susan B. King,

Chairman.

For the Environmental Protection Agency:

Douglas M. Costle,

Administrator.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

Consumer Products Containing Asbestos; Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Consumer Product Safety Commission is concerned that consumer exposure to asbestos from consumer products may present an unreasonable risk of injury and that some consumer products containing asbestos may present a substantial product hazard. CPSC will begin its formal investigation of the use of asbestos in consumer products by publishing this notice soliciting general information on the use of asbestos in consumer products. In addition to soliciting information on the use of asbestos in consumer products, this notice describes CPSC's proposed regulatory approach to asbestos in consumer products and solicits public comment on the approach. The Commission will consider the comments during the development of any proposed regulation or other remedial action to protect consumers.

DATE: Comments and information should be submitted on or before December 17, 1979. Those comments received after this date will be considered only to the extent practicable.

ADDRESS: Comments and information should be sent, preferably in five copies, to Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and should refer to "Asbestos." Received comments and other relevant information may be examined in copies obtained from Office of the Secretary, 1111 18th Street, N.W., 3rd Floor, Washington, D.C. 20207, during business hours Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Francine Shacter, Program Manager, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6557. For information concerning financial compensation for public participation in this investigation, contact Catherine Bolger, Office of the Secretary at the above address, telephone (202) 254-6241.

SUPPLEMENTARY INFORMATION:

Background

Asbestos is a general term for any of several naturally occurring fibrous minerals composed of silica, oxygen, hydrogen, and other elements such as sodium, calcium, iron, or magnesium. There are six basic varieties of asbestos minerals that are found in fiber form: chrysotile (the most common variety, and that found in about 95% of asbestos-containing products in the Unites States), amosite, crocidolite, actinolite asbestos, tremolite asbestos, and anthophyllite asbestos.

The high tensile strength, flexibility and heat chemical resistance of asbestos makes it adaptable to a large number of uses. Although precise figures on the number of asbestos-containing products are not available, the Commission estimates that hundreds of different types of consumer products contain asbestos in some form. Many consumer products, for example, contain asbestos paper as a thermal or electrical insulating barrier. Asbestos is also commonly used in household building products to provide strength and stability.

Health Risks Related to Asbestos Exposure

CPSC is concerned that the presence of asbestos in consumer products, under certain conditions, may present a risk of cancer and respiratory disease. On the basis of current information, it appears that consumer products containing asbestos fibers can pose a health hazard if the asbestos fibers are released into the air, and therefore are available for inhalation. The hazard may be undetectable in the ordinary use of asbestos-containing products, since some asbestos fibers may be visible only by means of optical or electron microscopy.

A large body of scientific evidence suggests that all major types of asbestos are carcinogenic. Animal data and human epidemiologic studies support this conclusion.

Extensive epidemiologic studies of health effects conducted in occupational settings provide the largest body of information on asbestos-related diseases. Since the early 1960's there has been increasing evidence as well of asbestos-related diseases in populations not occupationally exposed to asbestos. Epidemiologic studies have demonstrated increased incidence of asbestos-related diseases, including lung cancer and mesothelioma (a cancer of the linings of the pleura and peritoneum) among nonoccupationally exposed populations, including individuals with only brief or intermitten "bystander" exposures.

Autopsy studies of lung tissues of residents in urban areas in many parts of the world indicate that the general population is being exposed to asbestos from the general environment and that once inhaled, asbestos fibers can remain lodged in the lungs for life.

Health Risks Related to Consumer Products Containing Asbestos

Asbestos released from consumer products poses several unique problems in the household. First, young children and infants are subject to exposure. This is of particular concern to the Commission. Second, unlike asbestos released into the general environment, where fibers may be disbursed by air currents, asbestos fibers released from consumer products into the living space can remain in a confined space over long periods of time and may be subject to repeated cycles of settling and resuspension. The presence of asbestos fibers can thus pose an ongoing inhalation risk in the household. Third, unlike the workplace where engineering control systems and protective clothing are available to minimize worker exposure to asbestos, household members have little or no protection from exposure to asbestos fibers released from consumer products.

Previous Commission Action Concerning Asbestos in Consumer Products

The Commission has issued rules declaring consumer patching compounds and artificial emberizing materials containing respirable asbestos as banned hazardous products under the Consumer Product Safety Act (CPSA). (16 CFR 1304 and 1305, 42 FR 63354, December 15, 1977.) These actions were taken on the basis of Commission findings that the use of these products in the household would subject consumers to increased exposure to asbestos fibers. The Commission determined that this increased exposure, combined in many cases with exposure to asbestos from other sources, would result in an increased risk of cancer. In view of the seriousness of this illness and the cumulative effects of asbestos exposure, the Commission determined that continued use of these products in the household presented an unreasonable risk of unjury and that no feasible consumer product safety standard under the CPSA could adequately protect the public from the risk.

The Commission has also been concerned with the use of asbestos in hair dryers in light of information initially indicating that a significant

proportion of some 50 to 60 million hair dryers in consumers' hands or in the chain of distribution contained asbestos. As a result of negotiations between the Commission's staff and firms which share approximately 90% of the consumer hair dryer market, the firms have agreed to cease production and distribution of hair dryers containing asbestos and to offer consumers some form of repair, replacement, or refund.

The Commission's concern with hair dryers containing asbestos has been broadened to include hair dryers used by consumers in commercial hair dressing establishments.

Tests of hair dryers containing asbestos have been performed for CPSC by the National Institute of Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare to aid in the determination of emission of asbestos fiber from the hair dryers. The results of these tests are currently being analyzed.

Information Gathering on Consumer Products Containing Asbestos

In order to determine the scope of the potential problem posed by consumer products containing asbestos, CPSC commissioned a study to determine what other categories of consumer products contain asbestos. As a result of a report by a Commission contractor, *Review of Asbestos Use in Consumer Prducts*, A. T. Kearney, Inc., Management Consultants (April, 1978) (Kearney report) and through examination of other published sources, the Commission has developed information that indicates the presence of asbestos in a number of consumer products. Using the Kearney report and other available published sources, the Commission's staff has grouped the products according to the general form in which the asbestos exists in the product. This list of consumer products or categories of products containing asbestos is set forth in Appendix A to this notice. Also included in Appendix A is a list of consumer products that have been the subject of consumer inquiries or that are otherwise alleged to contain asbestos. The Commission requests interested persons to provide information on whether the lists in Appendix A are complete and accurate. Any information received in response to this notice will help the Commission determine the scope of the problem and identify specific products on which it may need to focus its attention.

To obtain additional specific information on the use of asbestos in consumer products in the near future, the Commission intends to issue general and special orders under the authority of section 27(b)(1) of the CPSA (15 U.S.C. 2076(b)(1)) to require manufacturers (including importers) and private labelers of certain categories of consumer products to submit information on the use of asbestos in specified consumer products which the Commission believes merit initial attention. The Commission intends to select consumer products containing asbestos for priority attention in this investigation, based on the following criteria: (1) the number of units of the product estimated to be in use by consumers, (2) the form and location of the asbestos in the product; (3) the frequency, duration, manner, and location in the consumer's environment of product use, including such factors as the expected useful life of the product and the presence of heat and/or moisture and the likelihood of abrasion during use or forseeable misuse; (4) the likely availability and feasibility of substitutes for asbestos in the product; (5) the relative ease of data collection and analysis by the Commission and the reporting burden on industry; and (6) the degree of potential overlap of CPSC reporting requirements with the information gathering efforts of other regulatory agencies, particularly the Environmental Protection Agency.

The information which the Commission may require in the general or special orders includes for the products covered: specific product indentification information; the function performed by the abestos in the product; a description of the asbestos; the location of the asbestos in the product; available test or other data concerning asbestos fiber emission; information on the promotion, marketing, and use patterns of the product; and information on possible substitutes for the asbestos in the product.

The Commission plans to begin selecting products for priority attention and may issue general or special orders to require the submission of information on those products during the time it is receiving comments on this notice.

The Commission intends to coordinate the gathering of information under the general and special orders with the information gathering activities of the Environmental Protection Agency (EPA), which is proposing, in an Advance Notice of Proposed Rulemaking appearing elsewhere in this issue of the **Federal Register**, a comprehensive regulatory program under the Toxic Substances Control Act to address asbestos exposure. Coordination between CPSC and EPA will include the sharing of information, including where permitted by applicable law, the sharing of confidential business information. Through this coordination, EPA and CPSC will endeaver to reduce reporting burdens on industry and improve the efficiency and effectiveness of regulatory efforts. The Commission solicits comments and information from interested persons on the issues raised by the sharing of confidential business information, particularly concerning ways to reconcile the agencies' need for information with industry's legitimate interest in preserving the confidentiality of trade secrets and other confidential commerical or financial information.

Regulatory Approach

General Policy

The previous regulatory action the Commission has taken concerning asbestos in consumer products has been based on several principles. First, the Commission concluded that exposure to any respirable asbestos fibers from consumer products presents a health risk because there has not been demonstrated to be a threshold or no-effect level below which exposure to asbestos fibers would be considered safe. Further, exposure to asbestos from consumer products is generally in addition to environmental exposure from a number of other sources, and therefore must be viewed as part of a cumulative burden of asbestos exposure.

Second, the seriousness of the injury associated with asbestos exposure—the potential increased risk of cancer—was given considerable weight by the Commission in the decision-making process to determine whether the consumer products presented an unreasonable risk. As it is required to do by statute, the Commission carefully considered the effect of regulatory action on the utility, cost, and availability of the product and concluded that in the absence of compelling evidence of unacceptable social or economic costs associated with removal of asbestos from the product, regulatory action was warranted.

The Commission recognizes that before it may take regulatory action, the Commission must make the necessary statutory findings, based on substantial evidence; and that it must observe the requisite procedures designed to ensure due process in taking regulatory action.

As a general approach, however, the Commission proposes initially to seek the elimination of all non-essential uses of asbestos in consumer products from which asbestos fibers are released during reasonably foreseeable conditions of use, including misuse. The Commission proposes to take regulatory action concerning non-essential uses of

asbestos on the basis of a determination of the fact of asbestos fiber emission, rather than a quantitative assessment. In determining whether a use of asbestos is essential, the Commission will generally consider a number of factors, including but not limited to: the function performed by the asbestos in the product, the benefit derived from the use of asbestos in the product; and the availability and cost of substitutes for the asbestos; and the safety of such substitutes.

The Commission proposes to use this regulatory approach in addressing the problem of asbestos exposure from consumer products and solicits comments from interested persons on whether this is an appropriate approach under the regulatory authority of the Commission.

By proposing this regulatory approach, the Commission does not intend to preclude possible action to address essential uses of asbestos in consumer products from which asbestos fibers are released. The initial focus, however, will be on non-essential uses of asbestos.

Statutory Tools for the Regulation of Asbestos in Consumer Products

CPSC administers two statutes under which it is empowered to regulate asbestos in consumer products. Under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051, et seq.), CPSC has the general responsibility to protect the public from unreasonable risks of injury, illness or death associated with consumer products. Under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261, et seq.), CPSC may regulate hazards presented by the presence or use of toxic and other hazardous substances in the household.

Possible regulatory actions under the CPSA to address asbestos exposure include:

(1) consumer product safety standards consisting of requirements as to performance, composition, contents, design, construction, finish or packaging of the product;

(2) consumer product safety standards requiring that the product be marked with or accompanied by clear and adequate warnings or instructions, including requirements specifying the form of warnings or instructions;

(3) rules declaring the product a banned hazardous product;

(4) orders, following the opportunity for an evidentiary hearing, determining that a product presents a substantial product hazard; and requiring the manufacturer, distributor, or retailer to notify the public and specific purchasers of the product of the nature of the hazard and requiring the repair or replacement of the product or refund of the purchase price; or

(5) rules requiring manufacturers of the product to give notification to consumers of performance and technical data, including warnings or instructions for safe use, at the point of sale. Such performance and technical data could include the results of testing which, under certain circumstances, the Commission may require manufacturers to perform.

At any time, even when one of the above proceedings is pending, the Commission may file a civil action in a United States district court against an "imminently hazardous" consumer product or the manufacturer, distributor or retailer of such product for seizure or injunctive relief.

The FHSA prescribes requirements for cautionary labeling of household products which are or contain "hazardous (including "toxic") substances", as those terms are defined in the Act or as the Commission may define them by regulation. The Commission also may prescribe by regulation reasonable variations or additional label requirements for hazardous substances. If the Commission finds that notwithstanding cautionary labeling, the degree or nature of the hazard presented by the substance is such that the public health can be adequately protected only by excluding such substance from the channels of commerce, it may, by regulation, declare the substance a banned hazardous substance. Banned hazardous substances are subject to automatic repurchase under the Act. Where a serious threat to public health exists, the Commission, pending completion of a rulemaking proceeding to declare a substance a banned hazardous substance, may, by notice published in the **Federal Register**, declare a substance an "imminent hazard", and thus temporarily ban such substance from the channels of commerce.

The CPSA empowers the Commission to address unreasonable risks of injury associated with consumer products or components of such products. The inclusion of components was intended to enable the Commission "to regulate just a part of a consumer product if only such regulation were warranted." *ASG Industries, Inc.* v. *Consumer Product Safety Commission*, 593, F. 2d 1323 (D.C. Cir. 1979). This recognition that products may pose a risk of injury because of the presence of a particular component suggests that the Commission could address in a single regulatory action the use of asbestos as a component in a number of different consumer products that share similar or related uses of asbestos, provided the Commission makes the requisite statutory findings under the CPSA. (See section 9(c), 15 U.S.C. 2058(c).)

Regulatory action to address asbestos in consumer products could include regulation of asbestos as a component in any consumer product where exposure to asbestos fibers occurs; regulation of a group or category of consumer products which contain asbestos in a form that results in exposure to asbestos fibers; or regulation of individual products that contain asbestos on a case-by-case basis if exposure to asbestos fibers occurs. The Commission has used the latter approach in the past. From the standpoint of effective protection of the public health and efficient expenditure of limited resources, however, the Commission believes that in certain circumstances a broader, more "generic" approach to regulation may be preferable. Where appropriate, the Commission will consider such an approach to the regulation of asbestos in consumer products. In situations where a particular type of product is found to present a hazard, the Commission will pursue appropriate regulatory action as to that product type.

Issues Highlighted For Comment

The Commission solicits comments and information from interested persons on all the issues raised in this notice as well as any other matter relevant to the investigation and possible regulation of consumer products containing asbestos. The Commission is particularly interested in receiving comments and information on the issues and questions set forth below.

1. Is the Commission's list of consumer products containing asbestos (or possibly containing asbestos) contained in Appendix A accurate and complete? Are there products or categories of products on the list that are (a) no longer manufactured or (b) currently manufactured but no longer contain asbestos? Are there products or categories of products currently manufactured that contain asbestos but that are not on the list?

2. How can agencies (such as CPSC and EPA) proceed to obtain information necessary to make informed regulatory decisions concerning asbestos while considering industry's, and the general public's interest in avoiding unnecessary reporting burdens? How can the agencies' needs for information be met while protecting industry's legitimate interest in preserving the confidentiality of trade secrets and other confidential commercial and financial information.

3. The Commission's proposed regulatory approach will initially seek the elimination of all non-essential uses of asbestos in consumer products from which asbestos fibers are released during reasonably foreseeable conditions or duration of use, including misuse. Is this a sound approach? Is it an appropriate one under the statutes the Commission administers? Under what circumstances should the Commission consider action to address essential uses of asbestos in consumer products from which fibers are released?

4. How should the Commission determine what constitutes an essential use of asbestos in consumer products? Are the Commission's proposed criteria appropriate? How much weight should be given to cost, availability, utility or safety of substitutes for asbestos in consumer products? How should the societal benefit derived from a product, or the use of asbestos in a product, be assessed?

5. The Commission's proposed position concerning the type of evidence necessary for regulatory action is that it can take action on the basis of a determination that asbestos fibers are being emitted from a product. Is this approach appropriate? In what situations should quantitative measures of asbestos fiber emission be attempted? If so, who should conduct the tests to determine the quantitative levels being emitted from particular products? Should the Commission attempt to define or develop criteria to determine whether asbestos fibers are "respirable"?

6. Where appropriate the Commission intends to consider regulation of asbestos as a component of one or more groups or classes of consumer products (i.e. "generically"), rather than on a product-by-product basis. Under what circumstances would this be an appropriate approach? What are the advantages or disadvantages of such an approach?

7. The Commission does not intend to employ quantitative estimates of cancer risks posed by exposure to asbestos fibers in making regulatory decisions concerning consumer products containing asbestos. Is this an appropriate approach to the regulation of the risks posed to the public from exposure to asbestos in consumer products?

8. The Commission has limited information concerning qualitative or quantitative studies of asbestos fiber emission from particular consumer products. The Commission is interested in receiving any such information in order to help identify products which should receive priority attention in this investigation.

9. The Commission has listed a number of criteria which it intends to apply in selecting consumer products containing asbestos for priority attention in its investigation. Are these criteria appropriate? Are there additional criteria that should be applied?

Public Participation

During the investigation and possible regulation of consumer products containing asbestos, the Commission hopes to receive the views of public interest, consumer, industry and other interested groups on all relevant issues. In order to facilitate this participation, the Commission, in addition to soliciting written comments and information through this notice, may conduct one or more public hearings or meetings. In order to ensure representation of viewpoints from groups and individuals who might otherwise not have the means to furnish comments in response to this notice, the Commission will make available financial compensation for reasonable expenses incurred in furnishing comments. Funding will also be available for participation in any hearings, meetings, or other future Commission proceedings connected to this investigation. Eligibility for financial compensation will be determined in accordance with the Commission's Interim Policies and Procedures concerning Financial Compensation of Participants in Informal Rulemaking Proceedings (16 CFR Part 1050). Individuals or groups who wish to apply for financial compensation should promptly contact the Office of the Secretary at the above address, and indicate their interest in receiving the necessary application forms and other information.

(Consumer Product Safety Act, 15 U.S.C. 2051 et. seq., Federal Hazardous Substances Act, 15 U.S.C. 1261, et. seq.)

Dated: October 12, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix A.—Consumer Products Containing Asbestos [1]

Asbestos Paper Products

Acoustical ceiling tile
Lamp sockets
Burner mats for gas stoves
Roofing felts (outer layers)
Pipe and boiler covering
Vinly sheet flooring backing
Radiator top insulation
Appliance heating shielding (paper)
  Slow cookers
  Hair dryers
Paper sheets for heat insulation
Millboard
  TV and other electronic switch plates
  Electric switch boxes
  Metal reinforced gaskets (for air-cooled engines)
  Electrical washers
  Linings for ovens, kilns, safes, safety boxes, incinerators
  Millboard sheet
    Wall protection behind heat-generating products
    Floor protection under wood and coal stoves
  Soldering and welding blocks
Iron rests
Appliance heat shielding (millboard)
    Toasters
    Rotisserie broilers
Fireproof wallboard
Metal-clad fire doors and partitions
Tent grommets
Stove pipe rings

Cloth and Woven Products

Flexible air conductor for heating, cooling and ventilating equipment
Appliance wiring
  Barbecue fire starters
  Broilers
  Curling irons
  Electric blankets
  Hair dryers
  Heating pads
  Ranges
  Slow cookers
  Toasters
  Irons
  Deep fat fryers
  Electric fry pans
Awnings
Candlesticks
Catalytic Heater Mantles
Cigarette Lighter wicks
Cord
  Seals for high temperature gaskets
  Valve steam packings
  Insulation for glass handling tools
  Reinforcing for braided wall stem hose
Theater curtains
Felt
  Reinforcements in plastics
  Gaskets
  Reinforcement in asbestos tapes
  Secondary insulation in high temperature wire and cable
  Asphalt impregnated roofing felts
  Piano and organ felts
Heating pads (element insulation)
Ironing board pads and covers
Lamp and lantern mantles
Pipe and boiler covering
Pot holders and oven mitts
Flame resistant garments
  Gloves
  Hats
  Helmets
  Hoods
  Mittens

[1] Source: *Review of Asbestos Use in Consumer Products*, A. T. Kearny Inc., Management Consultants (April, 1978), and other published sources. Final jurisdictional determinations for these products have not been made. The inclusion of a product on this list does not mean that all brands or models of that product contain asbestos.

Overgaiters
Sleeves
Suits
Umbrellas
Aprons
Arm protectors
Flame-resistant blankets
Boots
Caps
Smokers' bibs
Stoves—Coal and wood burning
Tape for pipe insulation
Braid and rope for packing
Motion picture screens
Tent grommets

Asbestos Cement Products

Water, sewer and septic drain field pipe
Airduct pipe
Sheet products
Roofing clapboard
Siding
Shingles
Interior walls
Boiler and furnace baffles
Bulk sheeting
Welding shields
Baking sheets
Blackboards
Laboratory table tops
Linings for vaults, safes, humidifiers and filing cabinets

Viscous Matrix Products

Adhesives (glues and epoxies)
Air duct cement for asbestos-cement air duct
Buffing and polishing compounds
Caulks and putties
Floor tile cement and mastic
Auto body filler
Flashing cement
Furnace cement
Glazing compound for ceramics
Pipe and boiler coverings
Roof and driveway coatings
Stains and varnishes
Automotive metal deadener
Automotive undercoating
Refrigerant cements
Automotive muffler repair compounds

Products Subject to Inadvertent Asbestos Contamination

Driveway gravel
Fertilizer and lawn care products
Potting materials (vermiculite)
Talcs for noncosmetic or food use applications

Miscellaneous Products

Acoustical and thermal insulation material, sprayed
Ammunition shell wadding
Automotive mufflers
Barbecue firebed materials in gas barbecue grills
Boat Hull Repair Kits
Flower pots
Friction Materials
Clutch plates
Brake linings
Potters' kilns (home hobby)
Pottery clay
Powder (asbestos)
Bulk fiber
Reinforcement in molded plastics and rubber
Automotive radiator sealant
Vinyl asbestos floor tiles
Abrasive wheels
Aerial distress flares
Molded plastics and phenolic laminates
Paint
Textured paint
Cement, drywall and plaster patching compounds
Artificial gas fireplace emberizing material
Phonograph records

Consumer Products Possibly Containing Asbestos [2]

Appliances

Air conditioners
Dishwashers
Hand-held mixers
Portable electric heaters
Popcorn poppers
Refrigerators
Vacuum cleaners
Waffle Makers

Miscellaneous Products

Carpet padding
Fire places
Instant papier mache
Light fixtures on railroad passenger cars
Welding masks
File cabinets

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OTS 61005; FRL 1332-4A]

Commercial and Industrial Use of Asbestos Fibers; Advance Notice of Proposed Rulemaking

AGENCY: Office of Toxic Substances, Environmental Protection.

AGENCY: (EPA, or the Agency).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM) Under the Toxic Substances Control Act (TSCA).

SUMMARY: EPA is concerned that many sources of human exposure to asbestos may present an unreasonable health risk. Exposure to asbestos fibers has been shown to contribute to increased risk of lung damage (asbestosis) and cancer of several anatomic sites in humans.

Asbestos is a generic name for several naturally occurring mineral fibers. Since the beginning of the century, approximately 30 million tons of asbestos fibers have been used in the United States to produce thousands of commercial and industrial products. The inventory of asbestos products is growing since products introduced into commerce represent about 750,000 tons of asbestos per year. Some fibers used in these products are inevitably released as a result of fiber processing, product manufacturing, distribution in commerce, product use, and disposal. Much of this asbestos remains in the biosphere as a ubiquitous pollutant because of the fibers' mobility and resistance to chemical and physical decomposition. Humans may be exposed to these fibers from the aforementioned direct and indirect sources.

Certain exposures to asbestos are controlled under various Federal and State authorities. However, because of limited mandates (i.e., focused on specific populations or exposure sources), technical difficulties (e.g., available fiber measurement techniques), and other analytical constraints, these authorities are not able to deal with the total asbestos problem. As a result, many population segments remain exposed to, and inadequately protected from both direct and diffuse sources of asbestos.

The comprehensive manadate of the TSCA enables EPA to reduce health risk from sources which are difficult to control through media-specific or source-specific regulation authorized under other Federal authorities. Under TSCA, EPA is currently investigating the cumulative effects of exposure to asbestos throughout its life cycle in commercial and industrial products (i.e., from mining and milling through processing, product manufacturing, use and disposal). Our preliminary studies indicate substantial continuing exposure of millions of people to the ever growing inventory of asbestos sources. As a result of this study, the Agency expects to promulgate rules to prevent and reduce any unreasonable risks that are identified.

EPA anticipates that any rules it develops to control unreasonable asbestos risk will evolve chiefly from a combination of the following regulatory approaches. Under the first approach, the Agency might promulgate rules that prohibit the processing, manufacture, and use of certain asbestos-containing products or product categories. Under the second approach, the Agency might limit the annual amount of asbestos imported and produced in the United States, or it might limit the amount of asbestos processed in the United States. Both approaches would aim at reducing the consumption of asbestos for nonessential purposes. Both reflect the Agency's belief that many asbestos products have economically available substitutes. All rules would be designed to minimize adverse impacts on industry

[2] Source: Consumer inquiries and other sources not verified by the Commission.

by providing sufficient time to adopt substitutes and eliminate asbestos processing equipment.

Control of asbestos already installed or in service will generally require action different from the ones above. Many existing sources are difficult to identify and control. However, as an initial step, the Agency is investigating the development of a rule to require public school surveys to determine whether asbestos hazards are present due to deteriorating insulation. The Agency will also consider requiring appropriate corrective measures where hazards are found. An Advance Notice of Proposed Rulemaking has been published in the **Federal Register** describing this action (44 FR 54676, September 20, 1979). Other existing sources that the Agency may control in the future include public buildings where asbestos was used as an insulation or decorative material and merchant ships where asbestos is widely used as insulation.

In support of the investigation of asbestos products and uses, EPA expects to issue a reporting rule under section 8(a) of TSCA to gather economic and exposure information. The Agency also anticipates issuing a rule under section 8(d) of TSCA to require the submittal of unpublished health and safety studies relating to asbestos. Finally, EPA will consider the need for supplementary regulation under other Federal laws administered by EPA and other Federal agencies.

EPA solicits comments on this Notice. These comments will be considered during development of any proposed regulations.

DATE: All comments must be received by the Record Clerk by December 17, 1979.

ADDRESS: Mrs. Joni T. Repasch, Record Clerk, Office of Toxic Substances (TS–793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Comments should include the docket number OTS–61005. Comments received on this Notice will be available for viewing and copying from 9 a.m. to 4:30 p.m., Monday through Friday, excluding holidays, in Room 447 East Tower, EPA Headquarters, 401 M Street, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone: 800–424–9065, [In Washington, D.C., call 554–1404].

SUPPLEMENTARY INFORMATION:

The Problem

EPA has conducted a preliminary evaluation of asbestos related health effects and exposure situations. On the basis of this evaluation, EPA believes that many sources of exposure to asbestos may present an unreasonable human health risk because of serious adverse health effects and large numbers of people subject to exposure. Studies of exposed populations have shown that asbestosis, a progressive deterioration of lung function, and various types of cancer are associated with asbestos exposure, even at low concentrations or after short exposure periods.[1, 2]

Asbestos is a generic name for a variety of naturally occurring fibrous mineral silicates (chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite). For many years asbestos has provided reliable protection against damage from heat, fire, and rot and has served many other valuable functions. The high tensile strength, flexibility, and heat and chemical resistance of asbestos fibers make them adaptable to a large number of uses. Although accurate figures on the number of asbestos-containing products are not available, some 2,000 to 3,000 discrete products are estimated to contain the material.

Asbestos use has been increasing steadily. Since the beginning of this century, approximately 30 million tons of asbestos have been used in the United States with the total increasing annually by about 750,000 tons (average annual use over the past ten years).[3]

Much of this asbestos is still in the biosphere because asbestos fibers are highly indestructible and quite mobile, moving from land and water to air through normal physical processes. Exposure sources include mines, mills, processing facilities, products, disposal sites and the ambient environment. With long latency periods between exposure and evidence of disease, we probably have not yet felt the total impact of asbestos-related disease incidence due to the growing presence of asbestos in the biosphere.

Approximately twenty Federal regulations under various laws regulate human and environmental exposure to asbestos.[4] Despite these regulations, however, large segments of the population continue to be exposed to asbestos. Consistent with their legislative mandates, existing regulations are limited to controlling asbestos in specific media (e.g., air, water, food), source categories (e.g., process emissions, waste piles), or population segments (e.g., workers). These regulations are not designed to control the full range of exposure situations. For example, there are over 100 million motor vehicles in the United States today. Since most vehicles use a set of asbestos-containing brake linings every 3 or 4 years, a considerable amount of asbestos-containing material is released to the environment during use and maintenance. Yet, not Federal regulation addresses the problem of asbestos build-up in the biosphere from this and many other sources.

Even within their regulatory purviews, Federal and state authorities are constrained in establishing adequate asbestos exposure controls. Because of their limited focus, these authorities only weigh partial risks (e.g., occupational exposure) against total societal benefits of asbestos-containing products and uses. The limitations of available fiber measurment techniques also constrain the range of feasible control options.

Approach to Regulation of Asbestos Under TSCA

The Agency believes that TSCA provides an effective means of controlling the proliferation of asbestos use in the United States and of reducing the health risks associated with the existing accumulation of asbestos in the environment. Under the compreshensive jurisdiction of TSCA, EPA has authority to weigh overall risks presented by the entire asbestos life cycle, from mining to final disposal. For example, EPA can control any chemical manufacturing, processing, distribution in commerce, use, or disposal activity, or any combination of these activities found to pose an unreasonable risk to health and the environment. EPA is planning to use TSCA's unique authority in this rulemaking to assess whether exposure to asbestos throughout its life cycle presents an unreasonable risk to human health. Where the presence of risk is determined, EPA will consider developing regulations under TSCA and other laws which the Agency administers. The development of

[1] Bogoviski, P. et al. (eds.), *The Biological Effects of Asbestos*. Proceedings of working conference held at the International Agency for Research on Cancer, Lyon, France: 2–6 October 1972, pages 155–182.

[2] Levin, R.J. (ed.), *Asbestos: An Information Resource*. DHEW Publication No. (NIN) 78–1681. May 1978, page 24.

[3] U.S. Environmental Protection Agency, *Chemical Market Input/Output Analysis of Selected Chemical Substances to Assess Sources of Environmental Contamination: Task III Asbestos*. Washington, D.C., 1978.

[4] U.S. Environmental Protection Agency, *Federal Register Citations Pertaining to the Regulation of Asbestos*. In-House Report, April 1979.

regulations under TSCA and other authorities will be integrated to promote adequate health protection and minimize impacts on industry.

The Agency anticipates that most asbestos regulatory action will be taken under section 6(a) of TSCA, although section 5(a) might also be used where appropriate. Among other things, section 6(a) enables the Agency to restrict chemical processing, limit quantities that can be used, require appropriate labels, and mandate recordkeeping. Section 5(a) enables the Agency to require that manufacturers submit premanufacturing notification for significant new uses of a chemical.

Before promulgating a rule under section 6(a) of TSCA, the Administrator must determine that the substance in question presents an unreasonable risk to human health and the environment. The Agency can then develop rules to reduce or prevent the risk using the least burdensome requirements.

To accomplish this end in the case of asbestos, TSCA requires that the following areas be examined and documented:

(1) The seriousness of health effects associated with identified levels and durations of human exposure to asbestos;

(2) The benefits of various uses of asbestos and the availability of practical substitutes for these uses; and

(3) The reasonably ascertainable economic impacts of the rules on the national economy, small business, technological innovation, the environment, and public health.

The following sections discuss the method the Agency plans to use in carrying out these studies.

Risk Assessment

EPA is examining the total risk to human health from exposures to asbestos throughout the material's commercial life cycle (i.e., from mining and milling, through fabrication into products, to final use and ultimate disposal). The Agency is preparing an assessment of occupational and general population risks from both new and existing exposure sources. The investigation will be based principally on available data concerning asbestos-related health effects and potential exposure situations. EPA believes that it already has much data to support rulemaking under TSCA. However, to insure that all relevant information is considered, the Agency expects to propose a reporting rule under section 8(d) of TSCA. The rule will require submission to the Agency of any unpublished health and safety studies on asbestos.

In examining asbestos health effects, EPA is relying heavily on the extensive epidemiological studies conducted primarily in occupational settings. The results of animal studies are being used to supplement epidemiolgic data. For example, data from animal studies are being used to assess the biological activity of fibers which differ in size, shape, or chemical composition. These studies, when combined with known and potential exposure situations, will show the seriousness of health effects associated with identified routes, levels, and durations of human exposure to asbestos. The linear nonthreshold model is being used to provide quantitative estimates of cancer risk in accordance with EPA Interim Guidelines for Carcinogen Risk Assessment (41 FR 21402, May 25, 1976) and the Interagency Regulatory Liaison Group's Guidance (44 FR 39858–39879, July 6, 1979) on the subject.

EPA particularly requests comment with respect to the analysis it intends to perform on the health risks of asbestos. Ideally, EPA would examine health risks presented throughout the commercial life cycle of asbestos associated with particular end products then analyze the substitutes for each of the end use products to determine if the risks presented are unreasonable. Asbestos, however, is contained in so many products that it would be an impracticable, if not impossible, task to analyze the risks associated with each of the 2,000–3,000 uses, except for certain distinct products which may present unique exposure situations. Furthermore, it is not clear that it is technically possible to trace the life cycle risks for a particular product, since at the early stages, such as mining and milling, asbestos is undifferentiated and may be used in any number of different end products.

Accordingly, EPA intends to analyze as a whole all the health risks associated with asbestos. The Agency's risk assessment will document major risks that occur within stages of the asbestos life cycle. Individual situations will be described that illustrate these stages. For certain situations, such as in some of the well studied asbestos workplaces, more precise estimates will be possible than in other situations. This type of risk assessment would show that risks occur generally from exposure to asbestos, rather than from any particular product because of the characteristics of that product.

EPA requests comment on the general validity of its risk assessment approach, and solicits suggestions for alternatives to remedy the problems associated with a product-by-product approach.

Some technical problems remain in making comparisons among the concentrations of asbestos that were measured by different sampling and analytical techniques. In particular, a comparison of work place levels measured with the light microscope to ambient urban levels measured with the more sensitive electron microscope would be helpful in estimating some components of asbestos risk. The Agency welcomes comments on the appropriate conversion factors to use when making comparisons of both types of data, and on the implications for estimating risk.

Socioeconomic and Substitute Assessment

If EPA's life cycle risk assessment concludes that substantial human health risk is associated with general exposure to asbestos, then the Agency will examine the situation for the presence of "unreasonable" risk on the basis of the availability of reasonable substitutes. Unreasonable risk may be analyzed on the basis of the present or future availability of reasonable substitutes on a product or category specific basis, or may be analyzed by a more general, representative socioeconomic evaluation of proposed asbestos controls. The Agency's choice of economic analysis will depend on the choice of regulatory options, which are explained below in the section titled "Regulatory Control Options." A combination of the two types of economic analyses is also being considered. The Agency will develop least burdensome controls to reduce these risks after consideration of probable socioeconomic impacts.

The analysis of substitutes will address the following issues: (1) the basic need for the product in the marketplace; (2) the performance capabilities of substitutes; (3) the present and anticipated availability of substitutes; (4) the cost of substitutes; and (5) the health and environmental hazards associated with substitutes. The evaluation of hazards from substitutes generally will be limited to a qualitative analysis. The economic analysis will include an economic profile of the industry and an examination of the potential impacts of any proposed controls. Key factors to be examined include: (1) industry structure and concentration; (2) pricing; (3) production volume; (4) current employment; (5) energy consumption; (6) income distribution; (7) growth, profitability, and capital availability; and (8) market segmentation.

Regulatory Control Options

The Agency is considering the following regulatory approaches to prevent and reduce unreasonable health risks at all stages of the asbestos life cycle.

First, the Agency might promulgate prohibitions on the manufacture, processing, and use of specific asbestos-containing products or product categories. The products or categories to be controlled would be determined on the basis of a category or product specific analysis of socioeconomic factors. Possible controls might include banning the manufacture and use of asbestos-containing textiles, roofing paper, or brake linings.

One disadvantage of this approach stems from asbestos fiber demand which reportedly exceeds current supplies. If this situation persists, fibers orginally destined for a banned product might be transferred to increase production of unrestricted products. Such a transfer could offset the reduction in asbestos use anticipated under the product use ban. The situation would only change after a large number of asbestos-containing products and uses were banned.

Another disadvantage of the specific product restriction approach is that it could generate voluminous exemption requests. Although well defined exemption criteria could minimize the number of requests, the demand on EPA resources could be significant. Despite these drawbacks, this option should still enable EPA to reduce and prevent many exposures associated with nonessential asbestos products.

Under the second approach, EPA could promulgate regulations setting limits on the amount of asbestos mined in the United States and imported annually. Alternatively, the regulation could restrict the amount of asbestos processed annually in the United States. The net risk reduction and prevention from either alternative should be about the same. In selecting between them, EPA would consider such factors as economic impacts and resources necessary for enforcement. Either alternative within this approach would be supported by a general or representative socioeconomic analysis of the proposed asbestos controls.

In essence, the second approach would establish a ceiling on the amount of asbestos used in the United States. This ceiling could be reduced gradually until it reaches a level which the Agency's socioeconomic analysis indicates is necessary for essential asbestos-containing products and uses. This approach would allow industry to determine which products and uses to eliminate. EPA would still be assured of reduction in asbestos use and environmental build-up. The disadvantage of this approach is that there is no guarantee of eliminating products which present a particularly high risk. For example, if a product with easily released fibers commands a relatively high price, it might remain in the marketplace much longer than if it was regulated specifically.

Under the third approach, the Agency might select a combination of the preceding approaches to take maximum advantage of their desirable features. The key differences between the two approaches are (1) whether EPA or industry determines which products are eliminated, and (2) whether specific products or overall quantity of asbestos fibers are regulated. EPA may prefer to allow industry to determine which products to eliminate and how to allocate available asbestos fibers. In order to provide this opportunity, the Agency may select production/import limits as the primary control option. Depending upon the outcome of socioeconomic and substitute analyses, EPA might reduce the initially established ceiling limit annually by 5 to 20 percent until an appropriate level is reached where all remaining fiber use is essential. In conjunction with the production/import rule, EPA might also ban a few selected products to ensure speedy elimination of items or uses presenting particularly significant risk. Possible candidates for ban include millboard, commercial paper, and certain friction products.

All regulations developed by the Agency under any of these approaches will be designed to minimize adverse impacts on the asbestos industry and asbestos users. To this end, the development of implementation schedules will allow for reasonable transitions to substitutes and orderly phase-out of asbestos processing equipment.

Phased Approach of Analysis

The widespread use of asbestos makes evaluating substitutes, assessing economic impact, and examining other factors necessary to support regulation a difficult and time consuming process. Therefore, the Agency is conducting regulatory assessments in a systematic manner on all asbestos product categories.

The following product categories account for the major portion of asbestos used in 1978: Paper products including certain roofing and flooring products, other flooring products, asbestos-cement pipe, asbestos-cement sheet, friction products, plastics, packing and gaskets, coatings and compounds, insulation and textiles.[5] Of these, EPA has selected asbestos paper products and automobile and light truck brake linings as initial candidates for analysis and possible rulemaking.

According to various estimates of asbestos use in 1978, paper products account for approximately 30–40 percent of the total asbestos consumption. Much of asbestos paper is used to make asbestos roofing products. Because of its versatility, however, asbestos paper has a wide variety of applications. These include asbestos paper, tubes, and tapes for electrical and thermal insulation; diaphragms for brime electrolysis cells; corrugated paper sheets and blocks for use in appliances and other applications; underlayments for sheet vinyl flooring; gaskets; beverage filters; molten glass handling equipment; and general heat/fire-proofing components. Many of these uses have reasonable substitutes. For example, roofing felt can also be made with organic and fiberglass fibers at less cost than asbestos fibers. The performance of these materials is very similar to asbestos roofing felt.

Friction products currently account for about 14 percent of total asbestos consumption. Brake linings constitute the largest single product within the friction product subcategory. Human exposure to asbestos emissions from brake linings occurs not only during processing (i.e., production of the brake linings), but also during use and servicing of brakes. Several automobile manufacturers are already using nonasbestos disc brake pads with plans to ultimately convert totally to nonasbestos pads. Nonasbestos shoes for drum brakes have been more difficult to develop but some manufacturers believe that they are near to developing a commercially acceptable substitute.

Existing Sources of Asbestos Exposure

Although risk associated with newly processed asbestos may be substantial, the continuing aggregate risk associated with existing and past asbestos use may be equally and possibly more significant. Unfortunately, reducing risks from the latter group is more complicated than reducing new risks because of difficulties in identifying all the related exposure sources, the lack of feasible control options for many sources, and the large costs associated with removing and replacing existing

[5] Clifton, R. A., *Asbestos-Mineral Commodity Profiles*, U.S. Department of the Interior, Washington, D.C., July 1979.

products. Some existing asbestos products, however, are amenable to evaluation and control. For example, asbestos has been widely used for insulation in schools and other buildings. In some of these buildings the insulation has deteriorated and fibers are entering the air in the buildings. EPA is currently investigating whether to require surveys of public schools for asbestos and appropriate control actions wherever exposure problems are identified. This action was announced in another ANPRM published in the Federal Register on September 20, 1979 (44 FR 54676).

Other existing uses of asbestos will be examined where practicable during subsequent stages of the asbestos regulatory investigation. Possible candidates include all public buildings and merchant ships.

Information Gathering under Section 8(a) of TSCA

EPA is developing a section 8(a) rule to help gather information needed for this investigation. The information will be used to determine appropriate regulatory action under TSCA as well as under other laws administered by EPA and other Federal activities. EPA invites comments on the need for such a rule; who should be subject to, or exempt from reporting; what information should be gathered under this authority; and how the section 8(a) rule should be designed.

Under section 8(a), EPA could require maintenance of records and reporting by persons who mine or mill asbestos, process asbestos (including making asbestos-containing products), and import asbestos or asbestos-containing products. Insofar as the information is known to, or reasonably ascertainable by those persons, the Agency could require reporting of information about any aspect of asbestos manufacture and processing. Possible reporting topics include the composition of asbestos-containing products, the uses of each product, all existing data concerning environmental and health effects, the number of individuals exposed in workplaces, and the duration and extent of these exposures, and the manner and method of asbestos waste or product disposal.

The section 8(a) rule could be designed in several ways depending, in part, on the control strategy selected by the Agency. A single rule might require one-time reporting of information, while a series of rules might require phased reporting by industry segments. Either type of rule could establish different reporting requirements for the various groups or persons (i.e., millers, processors, importers of asbestos) subject to the rule. A rule might require immediate submission of some information while retaining the authority to request other specified information by letter at a later date. The possible scope of a section 8(a) rule is discussed in more detail in the issue section below.

Citizens Petition

Under section 21 of TSCA, a citizen may petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under various provisions of the Act. On June 21, 1979, the Agency received such a petition requesting that a proceeding be initiated to restrict future use of asbestos-cement pipe in drinking water supply systems. This request is compatible with the Agency's plans, as announced in this Notice, to initiate a comprehensive investigation of commercial and industrial asbestos uses including asbestos-cement pipe.

The Administrator's response to the petition notes that the evaluation of health effects information on risks resulting from the ingestion of asbestos is not yet complete. It also states that the Agency has just begun gathering exposure and socioeconomic information on asbestos-cement products. Thus, it is not EPA's intent to include asbestos-cement pipe as a candidate for initial rulemaking. Nonetheless, because the Agency has initiated investigations to support a decision on whether to regulate asbestos-cement pipe under TSCA, the Administrator granted the petition.

Issues

Several issues must be resolved during this asbestos rulemaking process. EPA invites comments on the following issues and any others which might be relevant.

1. *Health Effects of Substitutes.* To adequately assess substitutes for asbestos, EPA requests health, environmental and socioeconomic information on substitute materials. This information has two purposes: (1) it will allow an informed analysis of the health effects of the substitutes for comparison with the known hazards of asbestos, and (2) it will enable a balanced consideration of the environmental, economic, and social impact of any action taken by the Agency.

We are particularly concerned with materials, such as fibrous glass, that might have physical dimensions and characteristics very similar to those of asbestos fibers, but differ only in chemical composition. EPA is aware of relevant research, especially the studies by Stanton [6, 7, 8] Pott [9, 10] and others. [11, 12, 13, 14, 15] These studies suggest that the length and width of fibers or the ratio of the width to the length may be more important than their chemical composition in determining carcinogenicity. More specifically, current research findings suggest that fibers with diameters less than or equal to 1.5 microns and lengths between 5 and 60 microns are likely to have greater fibrotic and carcinogenic potency than fibers falling outside these ranges. Consequently, we plan to adopt a policy that nonasbestos fibers with physical dimensions within these ranges are not appropriate substitutes unless appropriate testing indicates otherwise. Fibrous or other substitutes which do not present major health risks would be determined to be suitable. EPA solicits comments on this approach.

2. *Scope of a Section 8(a) Rule.* To develop regulations for asbestos sources, the Agency must gather and

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[6] Stanton, M. F. Layard M. "The carcinogenicity of fibrous minerals." Proceedings of the workshop on asbestos: definitions and measurements methods held at NBS, Gaithersburg, Maryland, July 18–20, 1977. National Bureau of Standards Special Publication 506, November 1978.

[7] Stanton, M. F. "Some etiological considerations of fiber carcinogenesis." In: Bogovski P. Gibson J. C., Timbrell V. Wagner J. C., eds. *Biological effects of asbestos.* Lyon: International Agency for Research on Cancer (IARC Scientific Publication number 8), 1973: pages 289–294.

[8] Stanton, M. F., Layard M. Tegeris A. Miller E. May M. Kent E. "Carcinogencity of fibrous glass: pleural response in the rat in relation to fiber dimension." J. Nat. Can. Inst. 1977; *58*(3).

[9] Pott F. Huth F. Friedricks K. H. "Results of animal carcinogenesis studies often applications regarding human exposure." In: NIOSH symposium on occupational exposure to fibrous glass, University of Maryland, 1974. National Institute for Occupational Safety and Health, 1977 (DHEW publication number (NIOSH) (76–151).

[10] Pott, F, Huth F. Friedricks K. H. "Tumoren der matte mnach i.p. injektion von gemahl-enem chrysotil und benzo (a) pyren.".

[11] Wagner J. C., Berry G. "Mesothelioma in rats following innoculation with asbestos and other materials." B. J. Can 1969; 23: pages 567–81.

[12] Wagner J. C., Berry G., Timbrell V. "Mesotheliomas in rats often innoculated with asbestos and other materials." B. J. Can 1973; 28: pages 173–85.

[13] Wagner J. C., Berry G. Timbrell V. "Mesothelioma in rats following the intrapleural innoculation of asbestos." In: Shapiro H. A., ed. *Pneumoconosis.* Proceedings of the international conference. Cape Town: Oxford University Press, 1970: pages 216–19.

[14] Wagner J. C., Berry G. Skidmore J. W. "Studies of the carcinogenic effects of fiber glass of different diameters following intrapleural innoculation in experimental animals." In: NIOSH symposium on occupational exposure to fibrous glass, University of Maryland, 1974. National Institute for Occupational Safety and Health, 1977. (DHEW publication number (NIOSH) 76-151).

[15] Smith, W. E., Hubert D. D. "The intrapleural route as a means for estimating carcinogenicity." In: Karbe E., Park J. F., eds. *Experimental lung cancer. Carcinogenesis and Bioassays.* New York: Springer-Verlog, 1974: pages 92–101.

analyze a variety of information concerning asbestos. Various EPA program offices have already accumulated a considerable amount of data through previous studies. These data will be used as much as possible. However, the Agency anticipates that it will need additional data for regulatory decision-making. The additional data includes recent production, market, substitute, exposure and health effects information. The Agency hopes to acquire some of this information through submittals by industry and other knowledgeable people in response to this ANPRM. EPA has also specifically contracted for studies to review the state-of-the-art knowledge and to develop new environmental and economic data.

Insofar as these nonregulatory avenues (e.g., this ANPRM, contractor studies, and other informal information requests) do not provide, or are not likely to provide sufficient information, the Agency will promulgate a section 8(a) rule. The issue at hand regards the appropriate scope of the section 8(a) rule. The Agency would like to minimize reporting burdens on industry. To this end, the promulgation of such a rule and its potential content will be influenced by responses to this ANPRM and informal Agency requests and by the need for confidential business information or other data not likely to be provided on a voluntary basis.

Relationship With Other Federal Laws

As previously noted, a number of rules for controlling exposure to asbestos have been promulgated under several Federal laws.

The Occupational Safety and Health Administration (OSHA) and the mining Safety and Health Administration (MSHA) regulate workplace exposures, the Department of Transportation (DOT) regulates the commercial transport of asbestos, the Food and Drug Administration (FDA) regulates the use of asbestos by the food and drug industries, and the Consumer Product Safety Commission (CPSC) regulates consumer products containing asbestos. EPA has established National Emission Standards for Hazardous Air Pollutants (NESHAP) for several asbestos sources under the Clean Air Act [16], 42 U.S.C. 7401 *et seq.*, and is considering additional asbestos air emission standards. EPA is developing effluent guidelines regulating wastewater discharges of asbestos and a water quality criterion under the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*, as amended in 1972 and 1977. EPA is also considering additional regulation of asbestos in drinking water under the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.* The Agency may also develop regulations for asbestos waste management under Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. 6921 to 6931.

Under section 9 of TSCA, 15 U.S.C. 2608, the Administrator will consider whether risks from asbestos exposure could be reduced to a sufficient extent by actions taken by other agencies under other Federal laws. The Administrator will also consider whether rules promulgated under other EPA authorities could address the asbestos problems more effectively. To maximize the effectiveness of this proposed rule, EPA is coordinating with several agencies both directly and through the Interagency Regulatory Liaison Group (IRLG). These agencies include the Food and Drug Administration, Consumer Product Safety Commission, Department of Agriculture, Mine Safety and Health Administration, and Occupational Safety and Health Administration.

Public Participation

The Agency plans to conduct this investigation and rulemaking in compliance with the public participation section of the *FR Notice* entitled "EPA: Improving Regulation; Final Report Implementing E.O. 12044" (44 FR 30988, May 29, 1979). Before and after publication of any notice of proposed or final rulemaking in the **Federal Register**, EPA will identify and meet with public interest groups, industry, regional, State, and local governments and other interested groups to obtain their views on regulatory needs, the Agency's approach, and technical issues. Information exchange will be facilitated through various public participation mechanisms, including public meetings and public hearings at appropriate locations around the country.

A financial compensation program for public participation will be available to applicants meeting eligibility criteria. The funds may be used for the cost incurred in commenting on proposed rules after publication. A Notice of Availability of Grant Funds will be published in the **Federal Register** announcing the financial compensation program, eligibility criteria, level of funding, and the procedures for applying for reimbursement.

Public Record

EPA has established a public record for this rulemaking (docket number OTS 61005) which, along with a complete index, is available for inspection in the OTS Reading Room from 9:00 a.m. to 4:30 p.m. on working days (Room 477, East Tower, 401 M Street, S.W., Washington, D.C., 20460). This record includes basic information considered by the Agency in developing this ANPRM. The Agency will supplement the record with additional information as it is received. Materials for incorporation in the public record include:

1. This Notice.
2. All comments on this Advance Notice and the proposed rule.
3. All relevant support documents and studies (including economic analyses performed for the purpose of defining small business as prescribed by section 8(a)(3)).
4. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record).
5. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

EPA will identify the completed rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material, for inclusion in the record at any time between this Notice and such designation. The final rule will also permit persons to point out any errors or omissions in the record.

Questions and Information Needs

To assist the Agency in gathering information for regulatory decision-making, EPA invites comments on, and responses to, the questions and information requests that are listed here or are discussed elsewhere in this Notice.*

1. The Agency solicits suggestions relating to the definition of several key terms identified below as well as other terms members of the public consider important to regulatory decision-making.

[16] These standards included certain work practice requirements which the United States Supreme Court in *Adamo v. Train*, 98 St. Ct. 566 (1978), found to be invalid. The Clean Air Act was amended by Congress in 1977 and 1978 to provide EPA with the authority to prescribe and enforce work practice standards. These asbestos standards are being promulgated again by EPA.

* CSPC, in an Advance Notice of Proposed Rulemaking appearing elsewhere in this issue of the **Federal Register**, announces a program to investigate the use of asbestos in consumer products. As part of this investigation, CPSC will solicit information through a variety of voluntary and regulatory means. To reduce potential reporting burdens on industry, CPSC will take into account response to EPA's questions when tailoring the Commission's requests for information on the use of asbestos in consumer products.

To the extent possible the Agency would like our definitions to conform to generally accepted usage. The terms to be defined include: (1) asbestos, (2) encapsulated fibers, (3) locked-fibers, (4) easily released fibers, and (5) friable materials.

2. The Agency is requesting all unpublished data or estimates relating to human exposure and to human health risks from exposure to asbestos during mining, manufacturing, processing, use, and disposal for all asbestos products including the following product categories:

(a) Asbestos paper, including roofing and floor underlayments;
(b) Friction products;
(c) Asbestos cement sheet;
(d) Asbestos cement pipe;
(e) Textiles;
(f) Flooring;
(g) Gaskets and packings;
(h) Paints, coatings and sealants;
(i) Asbestos-reinforced plastics.

The information submittals should include data on exposure of both workers and people near mining, manufacturing and processing facilities. Where data might be extensive, covering several years, many work stations or many sampling points, summaries which include appropriate statistical analysis would be sufficient. Data of interest include present and future estimates of:

(a) The number of people exposed;
(b) The routes, duration and frequency of exposure;
(c) The intensity of exposure (fiber concentration preferred);
(d) Fiber size distributions;
(e) Fiber types;
(f) Relative and attributable risk estimates for all cancers of specific organs and nonneoplastic respiratory diseases;
(g) Variations in risk by age, sex, smoking status, duration and intensity of exposure, fiber types, and time from onset of exposure; and
(h) Technical controls currently used to monitor and control exposures to asbestos at the plant site.

3. Based on preliminary information, a list of asbestos-containing commercial and industrial product categories is presented in the Appendix to this Notice. The extent of human exposure to asbestos fibers from these products depends on many factors including the releasability of the fibers, the duration of the exposures, and the size of the population exposed throughout various parts of the life cycle of asbestos in the product. Products which release asbestos fibers during normal use, installation, maintenance, removal, or plausible mishandling are of particular concern during the use segment of the life cycle. Categories containing products which EPA believes may fall into this classification are noted with an asterisk in the Appendix. Identification of these products was based not upon testing but upon generally available information. The Agency is interested in determining the necessity of using asbestos in these products. The Agency requests the following information on these products and other asbestos-containing products.

(a) Do these products contain asbestos?
(b) What is the purpose of asbestos in the product; what is the asbestos content by percent of total composition and weight; and what is the asbestos fiber type, size and shape?
(c) What are the figures for annual production and sales of the product, and the annual amounts of asbestos used in each product?
(d) What is the value of the product and the cost of the asbestos used in that product?
(e) What exposures are expected during the manufacture of the asbestos-containing product; and what are the expected exposures associated with each use? (Rate of fiber release, frequency, duration, population exposed, and conditions of use.)
(f) What point source and non-point source discharges of asbestos to water are associated with the processing of asbestos fibers, manufacture and use of asbestos-containing products (e.g., quantity, concentration)?
(g) What amounts and types of asbestos-containing wastes are generated in connecton with manufacture of the product; and what methods and sites of storage, treatment and disposal are currently used for those wastes?
(h) What are the product life, and expected removal and disposal techniques for each use? What type of disposal sites are used?

4. The Agency is requesting the following information regarding the industry structure.

(a) What are the current trends in the use of asbestos and asbestos-containing products?
(b) Is the market stable?
(c) What size and type of industry is most likely to be affected by regulation of asbestos under TSCA?
(d) What effects on industry structure would be anticipated from regulation under TSCA?
(e) What effects on employment can be anticipated from asbestos regulation under TSCA?

5. The Agency is requesting the following information regarding substitutes for asbestos and asbestos-containing products. Manufacturers of substitutes are particularly encouraged to submit information.

(a) What substitute substances are presently available or currently under development for asbestos in paper products (including roofing felts and floor underlayments), friction products, flooring, plastics, cement, sealants and other commercial and industrial products?
(b) What substitute products are presently available or currently under development for asbestos-containing products in the categories described above?
(c) What are the performance characteristics of these substitute substances and products as compared to asbestos-containing products?
(d) What unpublished data are available regarding human exposure to, and health effects of substitutes for asbestos-containing products?
(e) What is the price differential between asbestos or asbestos-containing products and their substitutes?
(f) How long will it take to convert to production and use of alternatives? Please comment on a product-specific or product category-specific basis.
(g) To what extent can present makers of asbestos-containing products change to substitute materials? Can this conversion be accomplished using existing asbestos production facilities? What will the cost of the changeover be in terms of capital and operating costs?
(h) If existing facilities cannot be used once substitutes replace asbestos, will new facilities be built by existing asbestos processing companies, by other companies, or by some combination of these?
(i) What effects might regulation of asbestos have on industrial innovation and introduction of new products?

6. What categories or individual products and uses containing asbestos do not present a health hazard to users? Why?

7. What asbestos-containing individual products or categories might be considered essential because of significant benefits and/or lack of reasonable substitutes? What are the specific benefits and costs and how should they be weighed?

8. Is the state-of-the-art for asbestos identification and quantification (phase contrast or electron microscopy) analytically adequate and economically feasible to establish numerical standards for fiber release and exposure resulting from the production of asbestos-containing products, their use and disposal? Can airborne fiber levels

be measured at 10^2 fibers/m^3, 10^3 fibers/m^3, 10^4 fibers/m^3, or 10^5 fibers/m^3, and can waterborne fiber levels be measured at 10^3 fibers/liter, 10^4 fibers/liter, 10^5 fibers/liter, 10^6 fibers/liter or 10^7 fibers/liter? Should the level be expressed as total fibers or as fibers greater than a specified length or aspect ratio? Are other parameters more appropriate (e.g., total mass release, etc.)?

9. What unpublished data are available regarding ambient levels or asbestos in air and water and asbestos exposure from various noncommercial asbestos sources such as drinking water supplies and naturally occurring asbestiform rock?

10. EPA and CPSC intend to share information received in support of their respective asbestos regulatory investigations. However, in view of potential statutory conflict regarding treatment of confidential business information, how should the agencies treat data for which a company claims confidentiality?

Authority: Secs. 5 and 6 of the Toxic Substances Control Act (TSCA) (90 stat. 2003; 15 U.S.C. 2601).

Dated: October 10, 1979.

Douglas M. Costle,

Administrator.

APPENDIX

A. *Automotive Repair*

1. Mufflers *
2. Brake linings *
3. Clutch facings *
4. Custom auto body filler *
5. Metal deadener *

B. *Household Materials*

1. Appliance wiring *
2. Counter surfaces *
3. Electrical cord *
4. Filler for shoe soles *
5. Floor tile *
6. Hair dryers *
7. Heat protective mats *
8. Ironingboard pads and covers *
9. Lamp mantles *
10. Lamp sockers *
11. Potters' kilns *
12. Slow cookers *
13. Toasters *

C. *Safety Equipment*

1. Aprons *
2. Arm protectors *
3. Blankets *
4. Boots *
5. Caps *
6. Clothing *
7. Curtains *
8. Draperies *
9. Gloves *
10. Hats *
11. Helmets *
12. Hoods *
13. Mittens *
14. Overgaiters *
15. Sleeves *
16. Suits *
17. Umbrellas *

D. *Recreational Activity*

1. Aerial distress flares *
2. Ammunition shell wadding *
3. Catalytic heater mantles *
4. Tent gromets *
5. TV sets and projector equipment *

E. *Home Building Repairs*

1. Latex paints *
2. Texture paints *

F. *Commercial Applications*

1. Aluminized cloth *
2. Bags *
3. Bearings *
4. Belting *
5. Blocks *
6. Boards *
7. Braid *
8. Buffing and polishing compounds *
9. Cloth *
10. Cord *
11. Diaphragms *
12. Drier felt *
13. Drilling fluids *
14. Fabrics *
15. Felt *
16. Filtering materials *
17. Metallic cloth *
18. Millboard *
19. Paper *
20. Pipe and boiler covers *
21. Pottery clay *
22. Plywood patch *
23. Sheet flooring *
24. Table tops *
25. Tape *
26. Textiles *
27. Welding electrodes *

G. *Asbestos Cement Products*

1. A/C air duct *
2. A/C pipe *
3. A/C sheet *
4. Baking sheets *
5. Cement boards *
6. Clapboard *
7. Roofing *
8. Shingles *
9. Siding *
10. Tile *

H. *Molded Products*

1. Gun grips
2. Filler and reinforcement in plastic *
3. Pond liners
4. Phenolic laminates
5. Resins
6. Rheostat backing

I. *Roofing Materials*

1. Aluminum roof coating
2. Roof patch
3. Roofing felts *
4. Roof preservative

J. *Sealants and Mastics for Consumer and Commercial Use*

1. A/C pipe joint sealant
2. Adhesives
3. Caulking compounds and putty *
4. Furnance cement
5. Glazing compound
6. Radiator sealant
7. Varnish *

* Indicates that products within the category potentially contain easily releasable fibers.

Note.—Not all of the products in each identified category are believed to contain asbestos.

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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
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	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

AGRICULTURE DEPARTMENT

Forest Service—

53928 9–17–79 / National Forest System Land and Resource Management Planning provisions

[Corrected at 44 FR 54294, September 19, 1979]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

53723 9–17–79 / Increase in approved takeoff weights and passenger seating capacities of reciprocating and turbopropeller-powered small multiengine airplanes

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

52226 9–7–79 / Wheat and wheat foods research and nutrition; comments by 10–22–79

52243 9–7–79 / Wheat and wheat foods research and nutrition education; comments by 10–22–79

Animal and Plant Health Inspection Service—

48974 8–21–79 / Importation of animals; revision of certain requirements; comments by 10–22–79

Commodity Credit Corporation—

54516 9–20–79 / 1979 Crop Grade Loan Rates Burley tobacco; comments by 10–22–79

Rural Electrification Administration—

49695 8–24–79 / Electric distribution borrowers' financial and statistical report; comments by 10–23–79

49696 8–24–79 / Operating report-power supply borrowers and distribution borrowers with generating facilities; comments by 10–23–79

CIVIL AERONAUTICS BOARD

43481 7–25–79 / Consumer protections for members of scheduled-service tour groups; comments by 10–23–79

52246 9–7–79 / Establishing service mail rate zones for interstate, overseas and foreign air transportation; comments by 10–22–79

49464 8–23–79 / Extension of Credit by air carriers to political candidates; comments by 10–22–79

54068 9–18–79 / Implementation of the National Environmental Policy Act of 1969; reply comments by 10–22–79

ENERGY DEPARTMENT

54719 9–21–79 / Administrative claims under Federal Tort Claims Act; comments by 10–22–79

Economic Regulatory Administration—

50847 8–30–79 / Mandatory petroleum price regulations; refiner investment incentives; comments by 10–26–79

Energy Conservation and Solar Applications Office—

49696 8–24–79 / Energy efficiency standards for consumer products; comments by 10–23–79

Federal Energy Regulatory Commission—

53492 9–14–79 / Rules generally applicable to regulated sales of natural gas; comments by 10–22–79

ENVIRONMENTAL PROTECTION AGENCY

54507 9–20–79 / Administrative order issued by the South Carolina Department of Health and Environmental Control to the U.S. DOE, Savannah River Operations Office; comments by 10–22–79

55396 9–26–79 / Air pollution; Ohio; delayed compliance order for General Motors Corp.; comments by 10–26–79

55213 9–25–79 / Pesticide registration and hazard evaluation; comments by 10–25–79

54510 9–20–79 / Proposed tolerances for the pesticide chemical atrazine; comments by 10–22–79

54510 9–20–79 / Proposed tolerances for the pesticide chemical carbaryl; comments by 10–22–79

55396 9–26–79 / Washington State implementation plan; revision; comments by 10–26–79

54072 9–18–79 / Stationary internal combustion engines; standards of performance; comments by 10–22–79

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

48987 8–21–79 / Procedural regulations; comments by 10–22–79

FEDERAL COMMUNICATIONS COMMISSION

55401 9–26–79 / FM broadcast stations in Athens and New Boston, Ohio and Greenup and Vanceburg, Ky.; change in table of assignments; reply comments by 10–23–79

47963 8–16–79 / FM broadcast stations; table of assignments, Paridise, Cal.; comments by 10–25–79

47962 8–16–79 / FM broadcast stations; table of assignments, Enid, Okla.; reply comments by 10–25–79

47964 8–16–79 / FM broadcast stations; table of assignments, Plainview, Texas; comments by 10–25–79

51263 8–31–79 / Multiple licensing of land mobile radio systems in bands 806–812 and 851–866 MHz; comments by 10–23–79

FEDERAL DEPOSIT INSURANCE CORPORATION

54722 9–21–79 / Interest on deposits; Exempt nondeposit obligations of mutual savings banks in minimum denominations of $100,000 or more; comments by 10–26–79

FEDERAL EMERGENCY MANAGEMENT AGENCY

50299 8–27–79 / Policy and procedures; comments by 10–26–79

FEDERAL TRADE COMMISSION

54730 9–21–79 / Advertising and labeling of protein supplements; comments extended to 10–24–79

[Originally published at 44 FR 43489, July 25, 1979]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

48979 8–21–79 / Imminent hazard criteria and procedure; comments by 10–22–79

48983 8–21–79 / Imminent hazard determinations; separation of functions; comments by 10–22–79

49844, 49954 8–24–79 / Medical devices, general hospital and personal use; classification; comments by 10–23–79

49699 8–24–79 / Radiofrequency sealers and electromagnetic induction heating equipment manufacturers; comments by 10–23–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

55332 9–26–79 / Mobile home loans; comments by 10–26–79

49700 8–24–79 / Nursing homes and intermediate care facilities mortgage insurance; eligibility requirements definitions; comments by 10–23–79

INTERIOR DEPARTMENT

Bureau of Mines—

55210 9–25–79 / Revised fee schedules; comments by 10–25–79

Fish and Wildlife Service—

43442 7–24–79 / Proposed listing with endangered status for the American crocodile throughout its range and the saltwater crocodile exclusive of the Papua New Guinea population; comments by 10–26–79

Surface Mining Office—

54493 9–20–79 / Coal mining on Federal lands; Federal/State cooperative agreements, North Dakota; comments by 10–22–79

INTERSTATE COMMERCE COMMISSION

49279 8–22–79 / Railroads; movement of containerized freight; comments by 10–22–79

LABOR DEPARTMENT

Mine Safety and Health Administration—

52258 9–7–79 / Safety and healths standards for surface construction; comments by 10–22–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

52680 9–10–79 / Nondiscrimination on the basis of handicap; comments by 10–25–79

NUCLEAR REGULATORY COMMISSION

50012, 50015 8–24–79 / Uranium mill tailings licensing and construction of major plants; comments by 10–24–79

[Corrected at 44 FR 54307, Sept. 19, 1979; 44 FR 55327, Sept. 26, 1979]

PERSONNEL MANAGEMENT OFFICE

49641 8–24–79 / Vacancies in competitive service; notification requirements; comments by 10–23–79

TRANSPORTATION DEPARTMENT

Coast Guard—

53184 9–13–79 / Vessel equipment specifications; pilot hoist, pilot ladder, and chain ladder; comments by 10–22–79

TREASURY DEPARTMENT

Comptroller of the Currency—

55191 9–25–79 / Participation by national banks in the sale of single-premium annuity contracts; comments period extended from 9–25–79 to 10–25–79

[Originally published at 44 FR 44172, July 27, 1979

Internal Revenue Service—

50065 8–27–79 / Excise tax on coal; comments by 10–26–79

48719 8–20–79 / Individual retirement plans; penalties and withholding tax rules; comments by 10–22–79

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

56732 10–2–79 / Rulemaking and Public Information Committee, Washington, D.C. (open), 10–22–79

AGING, FEDERAL COUNCIL

56398 10–1–79 / Long Term Care Committee, Washington, D.C. (open), 10–24–79

AGRICULTURE DEPARTMENT

Forest Service—

54738 9–21–79 / Deerlodge National Forest Grazing Advisory Board, Butte, Mont. (open), 10–26–79

AIR QUALITY, NATIONAL COMMISSION

40572 7–11–79 / Meeting, Washington, D.C. (partially open), 8–6–79

CIVIL RIGHTS COMMISSION

56733 10–2–79 / Virginia Advisory Committee, Arlington, Va. (open), 10–23–79

COMMERCE DEPARTMENT

Census Bureau—

55621 9–27–79 / Agriculture Statistics Census Advisory Committee, Suitland, Md. (open), 10–23–79

57462 10–5–79 / Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census, Suitland, Md. (open), 10–26–79

Industry and Trade Administration—

57143 10–4–79 / Computer peripherals, Components and Related Test Equipment Technical Advisory Committee, Washington, D.C. (partially closed), 10–24–79

Maritime Administration—

54748 9–21–79 / U.S. Merchant Marine Academy Advisory Board, Washington, D.C. (open), 10–24–79

National Oceanic and Atmospheric Administration—

52711 9–10–79 / Mid-Atlantic Fishery Management Council's Surf Clam/Ocean Quahog Resources Subpanel, Dover, Del. (open), 10–26–79

54328 9–19–79 / South Atlantic Fishery Management Council, Myrtle Beach, S.C. (open), 10–23 through 10–25–79

Office of the Secretary—

55622 9–27–79 / National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete, Gaithersburg, Md. (open), 10–23 and 10–24–79

DEFENSE DEPARTMENT

Air Force Department—

55222 9–25–79 / Scientific Advisory Board, Kirtland AFB, N. Mex. (closed), 10–23 and 10–24–79

Army Department—

57463 10–5–79 / U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medicinal Chemistry, Washington, D.C. (partially open), 10–26–79

Office of the Secretary—

52714 9–10–79 / Defense Advisory Committee on Women in the Services, Ft. Jackson, S.C. (open), 10–24 and 10–25–79

52714 9–10–79 / Defense Advisory Committee on Women in the Services, Columbia, S.C. (open), 10–21 through 10–23–79

49009 8–21–79 / Department of Defense Wage Committee, Washington, D.C. (closed), 10–23–79

ENERGY DEPARTMENT

54336 9–19–79 / Automotive Propulsion Research and Development; Contractor Coordination, Dearborn, Mich. (open), 10–23 through 10–25–79

57959 10–9–79 / Preparation of environmental impact statement; Louisville, Ky. (open), 10–25–79

57959 10–9–79 / Preparation of environmental impact statement; Owensboro, Ky. (open), 10–24–79

Energy Research Office—

57153 10–4–79 / High Energy Physics Advisory Panel, Germantown, Md. (open), 10–22 and 10–23–79

Environment Office—

57154 10–4–79 / Environmental Advisory Committee, Washington, D.C. (open), 10–22 and 10–23–79

National Petroleum Council—

56978 10–3–79 / Coordinating Subcommittee of Refinery Flexibility Committee, Washington, D.C. (open), 10–22–79

Office of the Secretary—

53100 9–12–79 / Meeting in conjunction with Solar Energy Research Institute, Washington, D.C. (open), 10–23 and 10–24–79

ENVIRONMENTAL PROTECTION AGENCY

57200 10–4–79 / Energy emergencies and clean air regulations, Washington, D.C. (open), 10–24–79

57482 10–5–79 / Science Advisory Board, Environmental Pollutant Movement and Transformation Committee, Washington, D.C. (open), 10–22 and 10–23–79

FEDERAL COMMUNICATIONS COMMISSION

57200 10–4–79 / National Industry Advisory Committee, Amateur Radio Services Subcommittee, Washington, D.C. (open), 10–22–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

53570 9–14–79 / Open Committee, Washington, D.C. (open), 10–25–79

FINE ARTS COMMISSION

55622 9–27–79 / Meeting, Washington, D.C. (open), 10–23–79

GENERAL SERVICES ADMINISTRATION

57494 10–5–79 / Regional Public Advisory Panel on Architectural and Engineering Services, Boston, Mass. (open) 10–24–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse and Mental Health Administration—

54122 9–18–79 / Alcohol Training Review Committee, Rockville, Md. (open and closed), 10–22 and 10–23–79

54123 9–18–79 / Basic Behavioral Processes Research Review Committee, Washington, D.C. (open and closed), 10–24 through 10–26–79

54123 9–18–79 / Board of Scientific Counselors, NIMH, Bethesda, Md. (open and closed), 10–25 and 10–26–79

54123 9–18–79 / Community Alcoholism Services Review Committee, Washington, D.C. (open and closed), 10–24 through 10–29–79

54123 9–18–79 / Criminal and Violent Behavior Review Committee, Washington, D.C. (open and closed), 10–24 through 10–26–79

54122 9–18–79 / Drug Abuse Biomedical Research Review Committee, Rockville, Md. (open and closed), 10–22 through 10–26–79

54123 9–18–79 / Drug Abuse Resource Development Review Committee, Rockville, Md. (open and closed), 10–22 through 10–26–79

54123 9–18–79 / Drug Abuse Clinical, Behavioral and Psychosocial Research Review Committee, Rockville, Md. (open and closed), 10–22 through 10–26–79

54124 9–18–79 / Minority Group Mental Health Review Committee, Washington, D.C. (open and closed), 10–25 through 10–27–79

Center for Disease Control—

56401 10–1–79 / Immunization Practices Advisory Committee, Atlanta, Ga. (open) 10–25 and 10–26–79

Education Office—

56745 10–2–79 / Adult Education National Advisory Council, Washington, D.C. (open), 10–24 through 10–26–79

Food and Drug Administration—

35242 6–19–79 / Current good manufacturing practices in manufacturing, processing, packing or holding human food, Atlanta, Ga., 10–24–79

53573 9–14–79 / Gastroenterology Devices Section of the General Medical Devices Panel, Washington, D.C. (open) 10–26–79

52338 9–7–79 / Science Advisory Board, Jefferson, Ark. (open), 10–23 and 10–24–79

National Institutes of Health—

45256 8–1–79 / Allergy and Clinical Immunology Research Committee, Bethesda, Md. (open), 10–22–79

50659 8–29–79 / Allergy and Infectious Diseases National Advisory Council, Bethesda, Md. (partially open), 10–23 and 10–24–79

53803 9–17–79 / Communicative Disorders Review Committee, Bethesda, Md. (partially open), 10–25 through 10–27–79

45257 8–1–79 / Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (partially open), 10–25 and 10–26–79

55421 9–26–79 / National Advisory Eye Council, Bethesda, Md. (partially open), 10–25 and 10–26–79

53802 9–17–79 / National Advisory General Medical Sciences Council, Bethesda, Md. (open), 10–24 and 10–25–74

57503 10–5–79 / National Advisory Research Resources Council, Bethesda, Md. (partially open), 10–24 through 10–26–79

49309 8–22–79 / National Arthritis, Metabolism, and Digestive Diseases Advisory Council, Bethesda, Md. (open), 10–26 through 10–28–79

52039 9–6–79 / Pathology A Study Section Workshop, Chantilly, Va. (open), 10–22–79

52038 9–6–79 / Reproductive Biology Study Section and the Human Embryology and Development Study Section Workshop, St. Louis, Mo. (open), 10–22 and 10–23–79

53800 9–17–79 / Research grant study sections (partially open):
Bethesda and Chevy Chase, Md., 10–21 through 10–27–79
Chantilly, Va., 10–23 through 10–26–79
Washington, D.C., 10–24 through 10–27

53106 9–12–79 / Scientific Counselors Board, National Institute on Aging, Baltimore Md. (partially open), 10–25 and 10–26–79

Office of the Assistant Secretary for Health—

55067 9–24–79 / National Committee on Vital and Health Statistics, Washington, D.C. (open), 10–22 and 10–23–79

Office of the Secretary—

58545 10–10–79 / Advisory Panel on Financing Elementary and Secondary Education, Washington, D.C. (open), 10–26 and 10–27–79

55437 9–26–79 / Rights and Responsibilities of Women Advisory Committee, Washington, D.C. (open), 10–25 and 10–26–79

55437 9–26–79 / Rights and Responsibilities of Women Advisory Committee, Health Task Force, Washington, D.C. (open), 10–24–79

INTERIOR DEPARTMENT

Land Management Bureau—

57505 10–5–79 / Colorado and Wyoming, Proposed Leasing of Federal Coal in the Green-River Hams Fork Region, Denver and Craig, Colo. and Rawlins and Cheyenne, Wyo. (open), 10–22 through 10–25–79

53315 9–13–79 / Montrose District Grazing Advsory Board, Montrose, Colo. (open), 10–25–79

National Park Service—

56051 9–28–79 / Committee for the Preservation of the White House, Washington, D.C. (open), 10–26–79

55069 9–24–79 / National Capital Memorial Advisory Committee, Washington, D.C. (open), 10–24–79

58548 10–10–79 / Ozark National Scenic Riverways Advisory Commission, Van Buren, Mo. (open), 10–26–79

54130 9–18–79 / Upper Delaware Citizens Advisory Council, Narrowsburg, N.Y. (open), 10–26–79

JUSTICE DEPARTMENT

57522 10–5–79 / Advisory Committee on Tax Litigation, Washington, D.C. (open), 10–22–79

National Institute of Corrections—

57523 10–5–79 / Advisory Board, New York, N.Y. (open), 10–24 and 10–25–79

LIBRARY OF CONGRESS

56407 10–1–79 / American Folklife Center Board of Trustees, Los Angeles, Calif. (open), 10–23 and 10–24–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

56062 9–28–79 / NASA Advisory Council; Aeronautics Advisory Committee; Hampton, Va. (open), 10–24 and 10–25–79

58007 10–9–79 / NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC), Washington, D.C. (closed), 10–25–79

NATIONAL SCIENCE FOUNDATION

58553 10–10–79 / Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Regulatory Biology, Washington, D.C. (closed), 10–25 and 10–26–79

58554 10–10–79 / Advisory Committee for Social and Economic Science, Subcommittee on History and Philosphy of Science, Washington, D.C. (closed), 10–26 and 10–27–79

58551 10–10–79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Linguistics, Washington, D.C. (closed), 10–25 and 10–26–79

58554 10–10–79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Social and Developmental Psychology, Washington, D.C. (closed), 10–25 and 10–26–79

58552 10–10–79 / Advisory Committee for Mathematical and Computer Sciences, Subcommittee for Computer Sciences, Washington, D.C. (open and closed), 10–25 and 10–26–79

58553 10–10–79 / Advisory Committee for Social and Economic Science, Subcommittee for Sociology, Washington, D.C. (closed), 10–25 and 10–26–79

PENSION POLICY, PRESIDENT'S COMMISSION

42831 7–20–79 / Study Group on Present and Future Income Needs of Retired and Disabled Population, Detroit, Mich. (open), 10–24–79

SMALL BUSINESS ADMINISTRATION

56772 10–2–79 / Region I Advisory Council, Hartford, Conn. (open), 10–24–79

52066 9–6–79 / Region II Advisory Council, Syracuse, N.Y. (open), 10–26–79

52066 9–6–79 / Region IV Advisory Council, Coral Gables, Fla. (open), 10–24–79

55262 9–25–79 / Region IV Advisory Council, Sumter, S.C. (open), 10–24–79

56773 10–2–79 / Region VI Advisory Council, Albuquerque, N. Mex. (open), 10–26–79

54574 9–20–79 / Region VI Advisory Council El Paso, Tex., (open), 10–26–79

56773 10–2–79 / Region IX Advisory Council, San Francisco, Calif. (open), 10–26–79

STATE DEPARTMENT

53834 9–17–79 / Shipping/Coordinating Committee's Committee on Ocean Dumping, Washington, D.C. (open), 10–22 through 10–26–79

Agency for International Development—

58014 10–9–79 / Board for International Food and Agricultural Development, Washington, D.C. (open), 10–25–79

Office of the Secretary—

58015 10–9–79 / Shipping Coordinating Committee, U.S. SOLAS Working Group on Fire Protection, Washington, D.C. (open), 10–24–79

TRANSPORTATION DEPARTMENT

Coast Guard—

57248 10–4–79 / Ship Structure Committee, New York, N.Y. (open), 10–24–79

National Highway Traffic Safety Administration—

34235 6–14–79 / National Highway Safety Advisory Committee, Washington, D.C. (open) 10–23 through 10–25–79

57248 10–4–79 / National Highway Safety Advisory Committee, Washington, D.C. (open), 10–23 through 10–25–79

TREASURY DEPARTMENT

Office of the Secretary—

55692 9–27–79 / Debt Management Advisory Committees, Washington, D.C. (closed), 10–23 and 10–24–79

VETERANS ADMINISTRATION

55082 9–24–79 / Station Committee on Educational Allowances, Toqus, Maine (open), 10–26–79

50425 8–28–79 / Voluntary Service National Advisory Committee, Arlington, Va., 10–24 through 10–26–79

WOMEN, PRESIDENT'S ADVISORY COMMITTEE

56770 10–2–79 / Meeting, Washington, D.C. (partially open), 10–22–79

57543 10–5–79 / Meeting, Washington, D.C. (partially open), 10–22 and 10–24–79

Next Week's Public Hearings

COMMERCE DEPARTMENT

Foreign Trade Zone Board—

55621 9–27–79 / Establishment of two general purpose foreign trade zone facilities in Clinton County, N.Y., Plattsburgh, N.Y., 10–24–79

National Oceanic and Atmospheric Administration—

55914 9–28–79 / Mid-Atlantic Fishery Management Council:
Riverhead, N.Y. and Ocean City, Md., 10–22–79
Norfolk, Va., 10–23–79

CONSUMER PRODUCT SAFETY COMMISSION

55386 9–26–79 / Partial revocation of standard for accelerated environmental durability testing of plastic glazing materials, Washington, D.C., 10–23–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

50605 8–29–79 / Phased Deregulation of Upper Tier Crude Oil, Washington, D.C., 10–24–79

54902 9–21–79 / Mandatory petroleum price regulations; Equal application rule and allocation of increased cost at retail level, Washington, D.C., 10–23–79

Federal Energy Regulatory Commission—

57107 10–4–79 / Small power production and cogeneration; rates and exemption

New Orleans, La., 10–22–79

Washington, D.C., 10–24–79

Boston, Mass., 10–26–79

ENVIRONMENTAL PROTECTION AGENCY

58540 10–10–79 / California State Motor Vehicle Pollution Control Standards, San Francisco, Calif., 10–25–79

54970 9–21–79 / Standards of performance for new stationary sources; Phosphate rock plants, Research Triangle Park, N.C., 10–25–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Office of the Secretary—

56029 9–28–79 / White House Conference on Families, Denver, Colo. (open), 10–26 and 10–27–79

LABOR DEPARTMENT

Mine Safety and Health Administration—

53540 9–14–79 / Independent contractors, Seattle, Wash., 10–23–79

53540 9–14–79 / Independent contractors, San Diego, Calif., 10–25–79

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

50362 8–28–79 / Unlawful trade practices under the Federal Alcohol Administration Act, Washington, D.C., 10–22 and 10–23–79

[Originally published at 44 FR 45298, August 1, 1979]

Customs Service—

57044 10–3–79 / Countervailing duties; hearing, Washington, D.C., 10–24 and 10–25–79

Listing of Public Laws

[Last Listing October 15, 1979]

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 412 / Pub. L. 96–86 Making continuing appropriations for the fiscal year 1980, and for other purposes. (Oct. 12, 1979; 93 Stat. 656) Price: $.75.

H.R. 5419 / Pub. L. 96–87 To authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes. (Oct. 12, 1979; 93 Stat. 664) Price: $.75.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

57370 10–4–79 / DOE—Electric and Hybrid Vehicle Program; small business planning grants; effective 11–5–79

58126 10–9–79 / Interior/BLM—Management of oil and natural gas pipelines and related facilities on Federal lands and reimbursement of costs; effective 11–8–79

58088 10–9–79 / Interior/HCRS—Urban Park and Recreation Recovery Program eligibility; effective 10–9–79

DEADLINES FOR COMMENTS ON PROPOSED RULES

58106 10–9–79 / Interior/BLM—Federal Land Policy and Management Act; Management of rights-of-way and related facilities on public lands and reimbursement of costs; comments by 1–7–80

57130 10–4–79 / NFAH—Nondiscrimination on basis of age in programs or activities receiving Federal financial assistance from NEH; comments by 12–14–79

57127 10–4–79 / NSF—Nondiscrimination on basis of age in programs or activities receiving Federal financial assistance from NSF; comments by 12–3–79

APPLICATIONS DEADLINES

58811 10–11–79 / HEW/HRA—Expanded function dental auxiliary training grants; apply by 11–15–79

58546 10–10–79 / HEW/NIOSH—Demonstration programs for safe asbestos removal or treatment in schools; announcement of request for competitive grant applications, apply by 12–1–79

58916 10–12–79 / USDA/FNS—Food Stamp Program; demonstration, research and evaluation projects; apply by 11–15–79, full proposals by 12–17–79.

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