AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

6-13-80
Vol. 45 No. 116
Pages 40093-40560

federal register

Friday
June 13, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C. and St. Louis, Mo.**, see announcement in the **Reader Aids** section at the end of this issue.

40200 **Grant Programs—Education** ED/NIE announces applications for Program of Research Grants on Law and Government Studies in Education; apply by 9–16–80

40232, 40233 **Grant Programs—Health** HHS/PHS announces availability of funds for projects regarding venereal disease, urban rat control, childhood lead-paint poisoning, and fluoridation of water systems; (4 documents)

40155 **Grant Programs—Housing** HUD/Sec'y transmits interim rule to Congress regarding community development block grants for housing assistance plan performance standards

40156 **Grant Programs—Social Programs** Justice/OJARS proposes rules regarding criminal intelligence systems operating policies; comments by 8–20–80

40243 **Grants Programs** Justice/LEAA publishes additional information regarding National Priority Program and Discretionary Program

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

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

40538 **Alcoholic Beverages** Treasury/ATF issues rules regarding labeling and advertising of wine, distilled spirits, and malt beverages; effective 10–14–80 (Part VII of this issue)

40093, 40094 **Food Stamps** USDA/FNS issues emergency rules for the Food Stamp Program; effective 7–1–80; and extends Food Stamp Workfare Demonstration Project, and invites comments from political jurisdictions (2 documents)

40514 **Nondiscrimination** DOE issues rules regarding Federaly assisted programs; effective 3–19–80 (Part VI of this issue)

40195 **National School Lunch Program** USDA/FNS issues income poverty guidelines for determining eligibility for free and reduced price meals and free milk; effective 7–1–80

40471 **Land Sales** HUD/ILSRO issues rules regarding land registration, purchaser's revocation rights, sales practices and standards, and formal procedures and rules of practice; effective 7–14–80 and 1–1–81 (Part IV of this issue)

40113 **Income Taxes** Treasury/IRS provides rules relating to election of alternative amortization method of funding certain pension plans

40556 **Mortgage Insurance** HUD/GNMA amends rules covering issuers' securities marketing and trading activities; effective 7–14 and 9–11–80 (Part VIII of this issue)

40101 **Nuclear Power Plants and Reactors** NRC issues interim policy statement regarding nuclear power plant accident considerations; effective 6–13–80, comments by 9–11–80

40106 **Petroleum** DOE/ERA amends rules to permit higher prices for tertiary incentive crude oil; effective 3–1–80

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40274 **Sunshine Act Meetings**

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40416 **Part III, Labor/ESA**
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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

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 172]

Food Stamp Program: Income Eligibility Standards, Standard Deductions, Dependent Care/Excess Shelter Expense Deductions and Thrifty Food Plan Amounts for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This amendment implements those provisions of Public Law 96–249, 94 Stat. 357, May 26, 1980 (the 1980 amendments to the Food Stamp Act of 1977, as amended), pertaining to the net monthly income eligibility standards, standard deductions, dependent care/excess shelter expense deductions and the Thrifty Food Plan amounts for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico and the Virgin Islands. The amendment: (1) revises Appendix A to section 273.9 to provide the net monthly income eligibility standards to be effective for the period July 1, 1980 to June 30, 1981, for all areas; (2) revises section 273.9(a)(2) to eliminate language regarding the method of annual updates to the Office of Management and Budget (OMB) nonfarm poverty guidelines; (3) revises §§ 273.9(d)(7) and 273.10(e)(4) to reflect annual updates each January 1 to the standard deductions and Thrifty Food Plan amounts for all areas, in lieu of semi-annual updates; and (4) revises § 273.9(d)(8) to change the timing of the annual adjustment to the maximum allowable excess shelter expense deductions for all areas from each July 1 to each January 1.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202–447–9075. The Final Impact Statement describing the impact of implementing the legislatively mandated changes is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Robert Greenstein, Food and Nutrition Service, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action because the legislation did not provide the Department any options as to the timing nor content of these changes. Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

Background

Normally at this time, the Department would be issuing annual adjustments to the net income eligibility limits and the limits on the combined shelter/dependent care deductions, along with the semi-annual updates to the Thrifty Food Plan amounts and the standard deduction.

However, Public Law 96–249, recently passed by Congress mandates significant changes to these updates. Public Law 96–249 mandates: (1) that the nonfarm poverty guidelines prescribed by OMB shall be the income eligibility standard for Food Stamp Program eligibility, and will no longer be adjusted by more current Consumer Price Index (CPI) data as was done in the past; (2) annual updates to the Thrifty Food Plan amounts and the standard deductions for all areas each January 1, in lieu of semi-annual updates now done each July 1 and January 1; and (3) an annual update to the maximum excess shelter expense deductions on January 1, 1981, and annual updates every January, thereafter, in lieu of annual updates that would normally have been done each July 1. Therefore, only the income eligibility limits are changed by this rule, and these changes are effective July 1, 1980.

Under the provisions of Public Law 96–249, the income eligibility standards to be effective in all areas on July 1, 1980 will be the most recent nonfarm poverty guidelines prescribed by OMB. Accordingly, Appendix A to section 273.9 is being revised to provide the net monthly income eligibility standards, effective July 1, 1980 for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands.

The Thrifty Food Plan amounts and standard deductions for all areas that became effective on January 1, 1980 and the ceiling amount for the dependent care/excess shelter expense deductions that became effective July 1, 1979, will remain in effect until January 1, 1981. States are reminded to comply no later than July 1, 1980 with the new rounding procedures in determining coupon allotments in accordance with § 273.10 of Food Stamp Program regulations issued January 31, 1980 (44 FR 457208).

Food Plan and the standard deduction, on January 1, 1980, reflected changes through September 30, 1979. Public Law 96–249 also requires that the January 1, 1981 adjustment to the maximum shelter/dependent care deduction reflect changes from March 31, 1979 through September 30, 1980. (The last such adjustment was made on July 1, 1979 and reflected changes through March 31, 1979.)

These changes are expected to result in savings of $148 million in fiscal year 1980 and $368 million in fiscal year 1981. As a result of ending the adjustment of the poverty guidelines by more current CPI data, food stamp net income limits will be reduced substantially below what they would have been under previous statutory provisions. The net income limit for a family of four, as of July 1, 1980, will be $7,450 a year, rather than $8,200 (as it would have been under

previous law). It is anticipated that as a result of this reduction in the net income limit standard, about 650,000 fewer persons will participate in the program in fiscal year 1981. This change is expected to save $15 million in the current fiscal year and $65 million in fiscal year 1981.

Cancellation of the July 1, 1980 and July 1, 1981 adjustments of the Thrifty Food Plan, standard deductions and maximum shelter/dependent care deductions will save $133 million in the current fiscal year and $300 million in fiscal year 1981.

Shown below are the current Thrifty Food Plan amounts, standard deduction amounts, and maximum excess shelter expense/dependent care deduction amounts for all areas to remain in effect until January 1, 1981:

Thrifty Food Plan Amounts

Household size	48 States and the District of Columbia	Alaska	Hawaii	Puerto Rico	Guam	Virgin Islands
1	63	98	86	60	91	77
2	115	180	158	111	167	142
3	165	258	226	158	239	203
4	209	327	287	201	303	258
5	248	388	341	239	360	306
6	298	466	409	286	432	368
7	329	515	452	317	477	406
8	376	589	517	362	545	464
Each addt'l person.	+47	+74	+65	+45	+68	+58

	48 States and the District of Columbia	Alaska	Hawaii	Puerto Rico	Guam	Virgin Islands
STANDARD DEDUCTIONS						
75	130	110	45	150	65	
MAXIMUM EXCESS SHELTER EXPENSE/DEPENDENT CARE DEDUCTIONS						
90	160	130	35	110	65	

Another program change provided in the Public Law 96–249 is a provision to require the use of the Consumer Price Index for All Urban Consumers (CPI–U) as the instrument for updating the standard deductions and for revising the excess shelter expense deduction ceiling. The Consumer Price Index (CPI) used in the past as the instrument of adjustments was the Consumer Price Index for All Urban Wage Earners and Clerical Workers (CPI–W). During deliberation on the bill, the House Committee stated, "A comparison of the CPI–U and CPI–W indicated that there is no appreciable difference between the two. . . . The Committee thought it preferable to adopt the new CPI because it is more responsive of the prices confronting the entire food stamp population." House Report No. 96–788, 96th Congress, 2nd session, p. 128. Therefore, future updates to the standard deduction and revisions to the ceiling amounts for the excess shelter expense deduction will be based on changes in the Consumer Price Index for All Urban Consumers (CPI–U). All pertinent sections of Food Stamp Program regulations containing the initials CPI are being revised to show the initials (CPI–U) for clarity.

Accordingly, §§ 273.9 and 273.10 are being amended to reflect the net monthly income eligibility standards to be effective July 1, 1980 and to reflect an annual update to the Thrifty Food Plan amounts, standard deductions, and maximum combined dependent care/excess shelter expense deductions, commencing January 1, 1981.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. Section 273.9(a)(1) is revised to read as follows:

§ 273.9 Income and deductions.

(a) *Income and eligibility standards.* * * *

(1) The income eligibility standards for the Food Stamp Program shall be uniform for the contiguous 48 States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The income eligibility standards for the 48 States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands shall be the Office of Management and Budget (OMB) nonfarm income poverty guidelines for the 48 States and the District of Columbia. The income eligibility standards for Alaska and Hawaii shall be the OMB nonfarm poverty guidelines prescribed for Alaska and Hawaii, respectively.

* * * * *

2. Section 273.9(a)(2) is amended by omitting the first sentence of the subparagraph.

3. Section 273.9 (d)(7) and (d)(8) are revised to read as follows:

* * * * *

(d) *Income deductions.* * * *

(7) *Annual adjustment of standard deduction.* Effective January 1, 1981, the standard deductions shall be adjusted annually to the nearest $5 to reflect changes in the Consumer Price Index for All Urban Consumers (CPI–U) for items other than food. The January 1, 1081 adjustment shall reflect changes for the 12 months ending the preceding September 30.

(8) *Annual adjustment of shelter deduction.* Effective January 1, 1981, the maximum limit for excess shelter expense deductions shall be adjusted annually to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of the Consumer Price Index for All Urban Consumers (CPI–U). The January 1, 1981, adjustment to the excess shelter expense deduction shall reflect changes for the 18 months ending the preceding September 30.

* * * * *

4. Appendix A to 273.9 is revised to read as follows:

Appendix A.—*Net Monthly Income Eligibility Standards*

Household size	48 States, District of Columbia, Guam, Puerto Rico, and Virgin Islands	Alaska	Hawaii
1	316	397	365
2	418	524	481
3	520	650	598
4	621	777	715
5	723	904	831
6	825	1,030	948
7	926	1,157	1,065
8	1,028	1,284	1,181
Each addt'l person.	+102	+127	+117

5. In Section 273.10, subparagraph 273.10(e)(4)(ii) is revised to read as follows:

§ 273.10 Determining household eligibility and benefit level.

* * * * *

(e) *Calculation of net income and benefit levels.* * * *

* * * * *

(4) * * *

(ii) *Annual adjustment.* Effective January 1, 1981, the Thrifty Food Plan amounts shall be adjusted annually to reflect changes in the cost of food. The annual adjustments shall be rounded to the nearest whole dollar. The January 1, 1981 adjustment shall reflect changes in the price of food for the 12 months ending the preceding September 30.

* * * * *

Dated: June 6, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80–17597 Filed 6–12–80: 8:45 am]

BILLING CODE 3410–30–M

7 CFR Part 282

Food Stamp Program; Demonstration, Research, and Evaluation Projects

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of Intent to Extend the Food Stamp Program Workfare Demonstration Project.

SUMMARY: On November 28, 1978, 43 FR 55334, the Department published in the

Federal Register final rulemaking and a Notice of Intent for the Food Stamp Workfare Demonstration Project which was mandated by subsection 17(b)(2) of the Food Stamp Act of 1977. Under this project food stamp work registrants are required to perform work in a public service capacity in exchange for the coupon allotment to which their household is otherwise normally entitled. The Notice of Intent announced the intention of the Departments of Agriculture and of Labor to jointly conduct the project, and sought proposals from eligible political subdivisions or groupings thereof to take part in the project.

We are hereby notifying the public of the extension of the Food Stamp Workfare Demonstration Project by Act of Congress (Pub. L. 96–249, 94 Stat. 357, May 26, 1980) for an additional year of project operations, and the addition of Federal funds to reimburse 50 percent of the operating costs incurred by the sponsoring political jurisdiction. We are also inviting expressions of interest from political jurisdictions.

DATE: We anticipate publishing Final Rulemaking within several weeks to implement these amendments to the law. At that time, we plan to re-open the application period for 30 days.

FOR FURTHER INFORMATION CONTACT: Ms. Alberta Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. (202) 447–8982.

SUPPLEMENTARY INFORMATION: In the near future, the Departments of Agriculture and of Labor will jointly publish Final Rulemaking in the Federal Register to implement the workfare amendments contained in the Food Stamp Act amendments of 1980, and to re-open the application process for project sponsors. The application period will be open for 30 days from the date of publication of the final rulemaking.

This action has been taken by Congress to expand the size and scope of the existing demonstration project. Urban or partially urban sites may be given preference in the selection. Presently operating sites are characteristically rural with the exception of the two Welfare Districts in San Diego County, California. Sites now taking part in this demonstration project are being invited to extend project operations beyond their current commitments and will be invited to re-apply during the application process for consideration in competition with other political jurisdictions making application. The contents of the applications and the criteria by which sites will be selected remain the same as those given in the November 28, 1978 final rulemaking and Notice of Intent.

To political jurisdictions expressing interest, we will forward additional information on the Food Stamp Workfare Demonstation Project. This invitation does not change or otherwise affect the 30 day application period to be established in the final rulemaking, and potential applicants need not respond to this invitation as a condition of application.

Dated: June 4, 1980.

Robert Greenstein,

Administrator.

[FR Doc. 80–17821 Filed 6–12–80; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Stabilization and Conservation Service

7 CFR Parts 723, 724, and 726

Tobacco Referendum Results

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule announces the results of the Maryland (Type 32), cigar-filler (Type 41), Virginia sun-cured (Type 37), and burley (Type 31) tobacco marketing quota referendums. Producers of burley and Virginia sun-cured tobacco approved national marketing quotas for the marketing years 1980–81, 1981–82 and 1982–83. Therefore, quotas will be in effect and producers will be entitled to participate in the tobacco price support program. Producers of Maryland and cigar-filler tobacco disapproved national marketing quotas for the same three year period. Therefore, quotas will not be in effect and producers will not be entitled to participate in the tobacco price support program.

This rule also establishes a procedure whereby the Secretary of Agriculture may be petitioned prior to November 10, 1980, or prior to November 10, 1981, to proclaim quotas for cigar-filler (Type 41), or for Maryland (Type 32) tobacco for the next three marketing years.

EFFECTIVE DATE: June 13, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 and has been determined to be exempt from those requirements. Jerome F. Sitter, Director, Price Support and Loan Division made this determination because the sole purpose of this document is to proclaim the results of the referendums.

Sections 723.21, 724.21 and 726.21 are issued pursuant to and in accordance with Section 312 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the marketing quota referendum results for cigar filler (Type 41), Maryland (Type 32), Virginia sun-cured (Type 37), and burley tobaccos, respectively, for the three marketing years beginning October 1, 1980, October 1, 1981, and October 1, 1982. The Secretary has proclaimed the national marketing quota for these tobaccos for the 1980–81, 1981–82, 1982–83 marketing years, and has announced the amount of the national marketing quotas for these kinds of tobacco for the 1980–81 marketing year (45 FR 8570, 8575, 8578). The Secretary had announced (45 FR 12462) that a referendum would be conducted by mail ballot during the period February 25–29, 1980, to determine whether producers of such tobaccos were in favor of or opposed to marketing quotas for the three marketing years beginning October 1, 1980, October 1, 1981, and October 1, 1982.

Final Rule

Accordingly, 7 CFR Part 723, 7 CFR Part 724 and 7 CFR Part 726 are amended by revising § 723.21, § 724.21 and § 726.21 to read as follows.

The material previously appearing in these Sections under centerheads "Marketing Quota Referendum Results" remain in full force and effect as to the crops to which each is applicable.

PART 723—CIGAR-FILLER (TYPE 41) AND MARYLAND TOBACCO

§ 723.21 Referendum results for cigar-filler (Type 41) and Maryland (Type 32) tobaccos for the 1980–81, 1981, and 1982–83 marketing years.

(a) *Cigar-filler (Type 41).* Of the 752 eligible cigar-filler (Type 41) tobacco farmers who voted in the February 25–29, 1980, referendum, 57 or 7.6 percent favored national marketing quotas for the three marketing years 1980–81, 1981–82, and 1982–83, and 695, or 92.4 percent, were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for cigar-filler (Type 41) tobacco of 27.4 million pounds for the marketing year beginning October 1, 1980, proclaimed on February 1, 1980, (45 FR 8570) will not be in effect. Likewise, as national marketing quotas have been

disapproved in three successive years since 1952 (18 FR 8474), (19 FR 9365) (21 FR 667) quotas will not be in effect for the marketing years beginning October 1, 1981, and October 1, 1982, respectively, unless pursuant to Section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1980, or prior to November 10, 1981, by one-fourth or more eligible farmers to proclaim national marketing quotas for the next three succeeding marketing years, respectively, and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(b) *Maryland* (Type 32). Of the 1,397 eligible Maryland tobacco farmers who voted in the February 25–29, 1980, referendum, 241 or 17.3 percent, favored national marketing quotas for the three marketing years 1980–81, 1981–82, and 1982–83, and 1,156 or 82.7 percent were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for Maryland (Type 32) tobacco of 39.1 million pounds for the marketing year beginning October 1, 1980, proclaimed on February 1, 1980, (45 FR 8570), will not be in effect. Likewise, as national marketing quotas have been disapproved in three successive years since 1952 (18 FR 8474), (19 FR 9365), (21 FR 667), quotas will not be in effect for the marketing years beginning October 1, 1981, and October 1, 1982, respectively, unless pursuant to Section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1980, or prior to November 10, 1981, by one-fourth or more eligible farmers to proclaim national marketing quotas for each of the next three succeeding marketing years, respectively, and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(c) *Petition Procedure.* Any petition under paragraph (a) of Section 312 of the Act shall be in writing and submitted to the Secretary, or if mailed shall be postmarked, prior to November 10, 1980, in the case of a petition for marketing quotas for the marketing years 1981–82, 1982–83, and 1983–84, or prior to November 10, 1981, in the case of a petition for marketing quotas for the marketing years 1982–83, 1983–84, and 1984–85. Any such petition shall include the address of each petitioner; shall state that such persons favor the proclamation of national marketing quotas for cigar-filler (Type 41) or for Maryland (Type 32) tobacco, as the case may be, for the years stated in the petition and the holding of a referendum; and shall show that such persons are producers engaged in the production of the crop of cigar-filler (type 41) tobacco, or Maryland (type 32) tobacco, as the case may be, harvested in the calendar year preceding the first of the marketing years stated in the petition, and constitute one-fourth or more of the producers so engaged.

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, and 55) TOBACCO

§ 724.21 Referendum results for Virginia sun-cured tobacco for the 1980–81, 1981–82, and 1982–83 marketing years.

Of the 297 eligible Virginia sun-cured tobacco farmers who voted in the February 25–29, 1980, referendum, 277 or 93.3 percent favored quotas for a period of three years beginning October 1, 1980, and 20 or 6.7 percent were opposed to quotas. Therefore, the national marketing quota of 1,500,000 pounds proclaimed February 1, 1980, (45 FR 8575) for Virginia sun-cured tobacco for the 1980–81 marketing year will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1980, October 1, 1981, and October 1, 1982.

PART 726—BURLEY TOBACCO

Marketing Quota Referendum Results

§ 726.21 Referendum results for burley tobacco for the 1980–81, 1981–82, and 1982–83 marketing years.

Of the 224,262 eligible burley tobacco farmers who voted in the February 25–29, 1980, referendum, 221,074 or 98.6 percent, favored quotas for a period of three years beginning October 1, 1980, and 3,188 or 1.4 percent opposed quotas. Therefore, the national marketing quota of 615 million pounds proclaimed February 1, 1980, (45 FR 8578) for burley tobacco for the marketing year beginning October 1, 1980, will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1980, October 1, 1981, and October 1, 1982.

(Secs. 301, 312, 319, 375, 52 Stat 38, as amended: 46, as amended, 85 Stat. 23, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1312, 1314e, 1375)

Signed at Washington, D.C., on June 5, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-17846 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 725

Flue-Cured Tobacco; Marketing Quota Referendum Results

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule announces the results of the flue-cured tobacco marketing quota referendum. Producers of this kind of tobacco approved marketing quotas for the 1980–81, 1981–82 and 1982–83 marketing years.

EFFECTIVE DATE: June 13, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, telephone number (202) 447–6733.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedure established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been determined to be exempt from those requirements. Jerome F. Sitter, Director, PSLD made this determination because the sole purpose of this document is to proclaim the results of the referendum.

Section 725.3 is issued pursuant to and in accordance with section 312 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the marketing quota referendum results for flue-cured tobacco for the three marketing years beginning July 1, 1980, July 1, 1981, and July 1, 1982. The Secretary has proclaimed the national marketing quota for flue-cured tobacco for the 1980–81, 1981–82 and 1982–83 marketing years, and has announced the amount of the national marketing quota for this kind of tobacco for the 1980–81 marketing year (44 FR 68804). The Secretary had announced (44 FR 71441) that a referendum would be conducted at polling places on December 18, 1979, to determine whether producers of flue-cured tobacco were in favor of or opposed to marketing quotas for the three marketing years beginning July 1, 1980, July 1, 1981, and July 1, 1982.

Final Rule

Accordingly, 7 CFR Part 725 is amended by revising § 725.3 to read as

follows. The material previously appearing in this Section under centerhead "Marketing Quota Referendum Results" remains in full force and effect as to the crops to which it is applicable.

§ 725.3 Results of the flue-cured tobacco marketing quota referendum for the three-year period beginning July 1, 1980.

In a referendum held on December 18, 1979, 115,925, farmers engaged in the production of the 1979 crop of flue-cured tobacco voted. Of those voting, 113,233, or 97.7 percent, favored marketing quotas for a period of three years beginning July 1, 1980, and 2,692, or 2.3 percent, opposed quotas. Therefore, the national marketing quota of 1,095 million pounds for flue-cured tobacco proclaimed (44 FR 68804) for the 1980–81 marketing year will be in effect for such year, and marketing quotas on such kind of tobacco will be in effect for the three years beginning July 1, 1980.

(Secs. 312, 317, 375; 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 66, as amended; 7 U.S.C. 1312, 1314c, 1375)

Signed at Washington, D.C., on June 5, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-17847 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 725

[Amdt. 14]

Flue-Cured Tobacco; 1979–80 Average Market Price and 1980–81 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule contains the average market price received by producers for the 1979–80 marketings and the penalty rate for excess tobacco for the 1980–81 marketing year. The penalty rate is 75 percent of the previous year market average, as required by Section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: June 13, 1980.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7935.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." J. A. Wells, Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, has determined that an emergency exists which warrants publication of this rule without opportunity for public comment because producers, warehousemen, and dealers need to know immediately the 1980–81 marketing year penalty rates for the marketing of excess tobacco (tobacco produced in excess of 110 percent of the farm marketing quota), so that production and marketing decisions can be timely made. Since the 1979–80 average market price producers received for flue-cured tobacco and the rate of penalty reflect mathematical computations rather than substantive changes, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective upon publication in the **Federal Register.**

Final Rule

Accordingly, 7 CFR Part 725 is amended by revising § 725.92(b) to read as follows:

§ 725.92 Rate of penalty.

* * * * *

(b)(1) *Average market price.* The average market prices as determined by the Crop Reporting Board for the marketing years specified were:

Average Market Price

Marketing year	Cents per pound
1973–74	88.1
1974–75	105.0
1975–76	99.8
1976–77	110.4
1977–78	117.6
1978–79	135.0
1979–80	140.0

(2) *Rate of penalty per pound.* The penalty per pound for marketings of excess tobacco subject to marketing quotas during the marketing years specified shall be:

Rate of Penalty

Marketing year	Cents per pound
1974–75	66
1975–76	79
1976–77	75
1977–78	83
1978–79	88
1979–80	101
1980–81	105

(Secs. 301, 313, 314, 316, 317, 363, 372–275, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 468, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1505, as amended secs. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e), 76 Stat. 606, (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372–1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590 p. (e)))

Signed at Washington, D.C., on June 3, 1980.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-17845 Filed 6-12-80; 8:45]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 256; Lemon Regulation 255, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period June 15–21, 1980, and increases the quantity of such lemons that may be so shipped during the period June 8–14, 1980. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective June 15, 1980, and the amendment is effective for the period June 8–14, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044.

The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on June 10, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is very active.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in EO 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.556 is added as follows:

§ 910.556 Lemon regulation 256.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 15, 1980, through June 21, 1980, is established at 320,000 cartons.

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

2. Paragraph (a) of § 910.555 Lemon Regulation 255 (45 FR 38033) is amended to read as follows:

§ 910.555 Lemon regulation 255.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period June 8, 1980, through June 14, 1980 is established at 330,000 cartons.

* * * * *

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

Dated: June 11, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–18057 Filed 6–12–80; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to issue Bulletin 345–82 to announce a new Specification for Wood Telephone Pedestal Stubs, PE–82. This specification has been developed to separate stubs from full length poles and to reflect the reduced inspection required for stubs. This will reduce inspection requirements for stubs and effectively lower their cost to REA borrowers.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.).

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, "Improving Government Regulations," and has been classified "not significant." Due to the potential for injury or damage to property should a full length pole fail, comprehensive and expensive inspection procedures are required. Conversely, the structural failure of a stub pole will have minimal impact. As a result, the inspection procedures for stub poles are being reduced to a justifiable level to enable REA borrowers to provide a more cost-effective service.

A Notice of Proposed Rulemaking was published in the **Federal Register** on March 4, 1980, Volume 45, Number 44, Page 14047. However, no public comments were received in response to the notice.

Dated: June 2, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80–17924 Filed 6–12–80; 8:45 am]

BILLING CODE 3410–15–M

Animal and Plant Health Inspection Service

9 CFR Part 83

Screwworms; Release of Areas Restricted

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release certain counties in Texas from designation as areas of recurring infestation of screwworms (myiasis). Surveillance activity indicates that recurring screwworm infestation no longer occurs in these restricted areas.

EFFECTIVE DATE: June 13, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Floyd E. Smith, USDA, APHIS, VS, Room 733, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8233.

The Final Impact Statement describing the options considered in developing this final rule, and the impact of implementing each option is available on request from program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

On Friday, April 4, 1980, there was published in the **Federal Register** (45 FR 22954–22955) a proposed rulemaking that would amend the regulations to release certain counties in Texas from the areas of recurring infestations of screwworms.

A 30-day comment period was provided for receipt of comments which expired May 5, 1980. A total of two comments were received, both in support of the proposal.

Accordingly, § 83.2 of Part 83, Title 9, Code of Federal Regulations, as amended, which restricts certain movements of livestock from Texas because of recurring screwworm infestations, a contagious and communicable disease, is amended in the following respects:

In § 83.2, the first paragraph and subparagraph (d) are amended to read as follows:

§ 83.2 **Notice relating to existence of screwworms.**

Notice is hereby given that screwworm infestations usually exist from April 15 through November 30 of each year in portions of the States of Arizona, California, New Mexico, and Texas designated in paragraphs (a), (b), (c), and (d) of this section. Therefore, the following areas are hereby designated as areas of recurring infestation:

* * * * *

(d) *Texas.* Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Calhoun, Cameron, De Witt, Dimmit, Duval, Edwards, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kenedy, Kinney, Kleberg, La Salle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Val Verde, Victoria, Webb, Willacy, Wilson, Zapata and Zavala Counties.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of screwworms (myiasis) and must be made effective as soon as possible in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 6th day of June 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-17923 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 113

Amended Potency Tests; Leptospira and Clostridium Bacterin; Standard Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the potency tests contained in eight standard requirements. Four standard requirements for leptospira bacterins and four standard requirements for clostridium bacterins and bacterin-toxoids are revised herein to permit the use of more animals at the initial phase of potency tests than are required for the challenge phase. This revision permits the use of one or two extra vaccinates and one or two extra controls. The number of animals required for the challenge phase of potency tests remains unchanged.

During potency testing under the present standards, if a test animal dies due to causes not attributable to the product before the challenge phase of a test, the required challenge phase cannot be completed and conclusive results cannot be obtained. Such test may, therefore, be classified as a "no test" and can be repeated. This amendment provides a means of avoiding such "no test."

Procedures for the injection of guinea pigs used in the potency tests in the four standard requirements for clostridium bacterins and bacterin-toxoids are also revised herein by increasing the time interval between the first and second injection of product from 9 to 10 days to 21 to 23 days. Data provided to the Department indicates this revision increases the level of protection seen in the test guinea pigs while retaining an acceptable dose-response relationship and improves the correlation of the test with protection in the host animal.

A change is also being made in the standard requirement for Clostridium Sordellii Bacterin-Toxoid to clarify and correct its intended meaning.

EFFECTIVE DATE: This amendment becomes effective July 14, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Present standard requirements for leptospira bacterins and clostridium bacterins and bacterin-toxoids require that potency tests be initiated with the same number of test animals as required for challenge. If one or more of the test animals dies between vaccination (the initial phase of a test) and challenge due to causes not attributable to the product, the test may be classified as a "no test" because of the insufficient number of animals remaining for challenge. This amendment is intended to avoid costly repeat testing and to add flexibility to the potency tests for these products by permitting the initiation of tests with more test animals than are needed for challenge. Under the revised standards contained herein, if an occasional death occurs after a test is initiated, there should still be an adequate number of survivors for completion of the test.

Potency tests provided in the present standard requirements for clostridium bacterins and bacterin-toxoids consist of vaccination-challenge tests conducted in guinea pigs. For such tests to be valid, they must demonstrate an acceptable dose-response relationship and correlate with efficacy in the host. Data developed by veterinary biologics licensees indicates an acceptable dose-response relationship can be maintained and correlation with protection in the host can be improved by changing the time interval that is used in these tests between the injection of the first and second dose of product. Increasing the present injection interval of 9 to 10 days to an interval of 21 to 23 days has been shown to increase the level of protection seen in guinea pigs without reducing the validity of the test. Data also indicate that such change results in a potency test that more adequately reflects the expected product efficacy in the host animal. This amendment provides for these changes in test procedure.

On December 11, 1979, a notice of the proposed rulemaking discussing the revisions contained herein was published in the **Federal Register** at 44 FR 71425.

Comments were solicited and seven responses were received. Six responses were favorable and supported the proposal as written. One response suggested that the additional animals that are permitted to be used to initiate these tests be permanently identified. This suggestion was rejected because it would result in more restrictive procedures that were not considered necessary to assure the validity of the test result.

The December 11, 1979, notice of proposed rulemaking also contained a discussion of an amendment of the Standard Requirements which appeared in the **Federal Register** on December 2, 1977, at 42 FR 61246 (§ 113.94). This amendment added a potency test to the standard requirement for products containing Clostridium Sordellii Bacterin-Toxoid. It provided that potency of these products could be evaluated by using either the test written into the filed Outline of Production or the two-stage test provided in the amendment. The supplementary information indicated that host animals, such as calves, may

be used in tests done according to filed Outlines of Production. It was the Department's intent that in potency tests conducted according to filed Outlines of Production in lieu of the standard guinea pig test provided in the regulations, only the use of host animals would be allowed. This is to assure that only valid and reliable procedures are used in evaluating products for potency. Therefore, in addition to the revisions discussed herein, this amendment also clarifies and corrects this intent by amending the introductory paragraph of § 113.94(c) to indicate that if an alternate test is provided in the Outline of Production, it must be a host animal test.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice, is hereby adopted as follows:

§§ 113.86–113.89 and 113.91–113.94 [Amended]

1. The first letter in each word of the headings for §§ 113.86, 113.87, 113.88, 113.89, 113.91, 113.93, and 113.94 are to be capitalized.

2. Section 113.86 is amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

§ 113.86 Leptospira Pomona Bacterin.

* * * * *

(c) * * *

(1) *Vaccinates.* Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls.* Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira pomona* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

3. Section 113.87 is amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

§ 113.87 Leptospira Icterohaemorrhagiae Bacterin.

* * * * *

(c) * * *

(1) *Vaccinates.* Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls.* Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira icterohaemorrhagiae organisms, using a dose of 10–10,000 hamster* LD_{50} as determined by titration.

* * * * *

4. Section 113.88 is amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

§ 113.88 Leptospira Canicola Bacterin.

* * * * *

(c) * * *

(1) *Vaccinates.* Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls.* Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira canicola* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

5. Section 113.89 is amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

§ 113.89 Leptospira Grippotyphosa Bacterin.

* * * * *

(c) * * *

(1) *Vaccinates.* Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls.* Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira grippotyphosa* organisms, using a dose of 10–10,000 hamster LD_{50} as determined by titration.

* * * * *

6. Section 113.91 is amended by revising paragraphs (c)(1) and (c)(2) to read:

§ 113.91 Clostridium Chauvoei Bacterin.

* * * * *

(c) * * *

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium chauvoei* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

* * * * *

7. Section 113.92 is amended by revising paragraphs (c)(1) and (c)(2) to read:

§ 113.92 Clostridium Haemolyticum Bacterin.

* * * * *

(c) * * *

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium haemolyticum* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

* * * * *

8. Section 113.93 is amended by revising paragraphs (c)(1) and (c)(2) to read:

§ 113.93 Clostridium Novyi Bacterin-toxoid.

* * * * *

(c) * * *

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium novyi* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

* * * * *

9. Section 113.94 is amended by revising the introductory portion of paragraph (c) and paragraphs (c)(1) and (c)(2) to read:

§ 113.94 Clostridium Sordellii Bacterin-toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency by one of the following methods: A host animal test written into the filed Outline of Production, or the two-stage test provided in this paragraph.

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium sordellii* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the second injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

* * * * *

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

Done at Washington, D.C., this 6th day of June 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-17817 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 51

Nuclear Power Plant Accident Considerations Under the National Environmental Policy Act of 1969

AGENCY: U.S Nuclear Regulatory Commission

ACTION: Statement of Interim Policy.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its policy for considering the more severe kinds of very low probability accidents that are physically possible in environmental impact assessments required by the National Environmental Policy Act (NEPA). Such accidents are commonly referred to as Class 9 accidents, following an accident classification scheme proposed by the Atomic Energy Commission (predecessor to NRC) in 1971 for purposes of implementing NEPA.[1] The March 28, 1979 accident at Unit 2 of the Three Mile Island nuclear plant has emphasized the need for changes in NRC policies regarding the considerations to be given to serious accidents from an environmental as well as a safety point of view.

This statement of interim policy announces the withdrawal of the proposed Annex to Appendix D of 10 CFR Part 50 and the suspension of the rulemaking proceeding that began with the publication of that proposed Annex on December 1, 1971. It is the Commission's position that its Environmental Impact Statements shall include considerations of the site-specific environmental impacts attributable to accident sequences that lead to releases of radiation and/or radioactive materials, including sequences that can result in inadequate cooling of reactor fuel and to melting of the reactor core. In this regard, attention shall be given both to the probability of occurrence of such releases and to the environmental consequences of such releases. This statement of interim policy is taken in coordination with other ongoing safety-related activities that are directly related to accident considerations in the areas of plant design, operational safety, siting policy, and emergency planning. The Commission intends to continue the rulemaking on this matter when new siting requirements and other safety related requirements incorporating accident considerations are in place.

DATES: This statement of interim policy is effective June 13, 1980 Comment period expires September 11, 1980.

ADDRESSES: The Commission intends the interim policy guidance contained herein to be immediately effective. However, all interested persons who desire to submit written comments or suggestions for consideration in connection with this statement should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: R. Wayne Houston, Chief, Accident Evaluation Branch Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7323.

SUPPLEMENTARY INFORMATION:

Accident Considerations in Past NEPA Reviews

The proposed Annex to Appendix D of 10 CFR Part 50 (hereafter the "Annex") was published for comment on December 1, 1971 by the (former) Atomic Energy Commission. It proposed to specify a set of standardized accident assumptions to be used in Environmental Reports submitted by applicants for construction permits or operating licenses for nuclear power reactors. It also included a system for classifying accidents according to a graded scale of severity and probability of occurrence. Nine classes of accidents were defined, ranging from trivial to very serious. It directed that "for each class, except classes 1 and 9, the environmental consequences shall be evaluated as indicated." Class 1 events were not to be considered because of their trivial consequences, whereas in regard to Class 9 events, the Annex stated as follows:

[1] Proposed as an Annex to 10 CFR Part 50, Appendix D, 36 FR 22851. The Commission's NEPA-implementing regulations were subsequently (July 18, 1974) revised and recast as 10 CFR Part 51 but at that time the Commission noted that "The Proposed Annex is still under consideration * * *" 39 FR 26279.

The occurrences in Class 9 involve sequences of postulated successive failures more severe than those postulated for the design basis for protective systems and engineered safety features. Their consequences could be severe. However, the probability of their occurrence is so small that their environmental risk is extremely low. Defense in depth (multiple physical barriers), quality assurance for design, manufacture, and operation, continued surveillance and testing, and conservative design are all applied to provide and maintain the required high degree of assurance that potential accidents in this class are, and will remain, sufficiently remote in probability that the environmental risk is extremely low. For these reasons, it is not necessary to discuss such events in applicants' Environmental Reports.

A footnote to the Annex stated:

Although this annex refers to applicant's Environmental Reports, the current assumptions and other provisions thereof are applicable, except as the content may otherwise require, to AEC draft and final Detailed Statements.

During the public comment period that followed publication of the Annex a number of criticisms of the Annex were received. Principal among these were the following:

(1) The philosophy of prescribing assumptions does not lead to objective analysis.

(2) It failed to treat the probabilities of accidents in any but the most general way.

(3) No supporting analysis was given to show that Class 9 accidents are sufficiently low in probability that their consequences in terms of environmental risks need not be discussed.

(4) No guidance was given as to how accident and normal releases of radioactive effluents during plant operation should be factored into the cost-benefit analysis.

(5) The accident assumptions are not generally applicable to gas cooled or liquid metal cooled reactors.

(6) Safety and environmental risks are not essentially different considerations.

Neither the Atomic Energy Commission nor the NRC took any further action on this rulemaking except in 1974 when 10 CFR Part 51 was promulgated. Over the intervening years the accident considerations discussed in Environmental Impact Statements for proposed nuclear power plants reflected the guidance of the Annex with few exceptions. Typically, the discussions of accident consequences through Class 8 (design basis accidents) for each case have reflected specific site characteristics associated with meteorology (the dispersion of releases of radioactive material into the atmosphere), the actual population within a 50-mile radius of the plant, and some differences between boiling water reactors (BWR) and pressurized water reactors (PWR). Beyond these few specifics, the discussions have reiterated the guidance of the Annex and have relied upon the Annex's conclusion that the probability of occurrence of a Class 9 event is too low to warrant consideration, a conclusion based upon generally stated safety considerations.

With the publication of the Reactor Safety Study (WASH–1400), in draft form in August 1974 and final form in October 1975, the accident discussions in Environmental Impact Statements began to refer to this first detailed study of the risks associated with nuclear power plant accidents, particularly events which can lead to the melting of the fuel inside a reactor.[2] The references to this study were in keeping with the intent and spirit of NEPA "to disclose" relevant information, but it is obvious that WASH–1400 did not form the basis for the conclusion expressed in the Annex in 1971 that the probability of occurrence of Class 9 events was too low to warrant their (site-specific) consideration under NEPA.

The Commission's staff has, however, identified in certain cases unique circumstances which it felt warranted more extensive and detailed consideration of Class 9 events. One of these was the proposed Clinch River Breeder Reactor Plant (CRBRP), a liquid metal cooled fast breeder reactor very different from the more conventional light water reactor plants for which the safety experience base is much broader. In the Final Environmental Statement for the CRBRP,[3] the staff included a discussion of the consideration it had given to Class 9 events.

In the early site review for the Perryman site, the staff performed an informal assessment of the relative differences in Class 9 accident consequences among the alternative sites. (SECY–78–137)

In the case of the application by Offshore Power Systems to manufacture floating nuclear power plants, the staff judged that the environmental risks of some Class 9 events warranted special consideration. The special circumstances were the potentially serious consequences associated with water (liquid) pathways leading to radiological exposures if a molten reactor core were to fall into the water body on which the plant floats. Here the staff emphasized its focus on risk to the environment but did not find that the probability of a core melt event occurring in the first place was essentially any different than for land-based plant. In its Memorandum and Order In the Matter of Offshore Power Systems,[4] the Commission concurred in the staff's judgment. Thus, the Reactor Safety Study and NRC experience with these cases has served to refocus attention on the need to reemphasize that environmental risk entails both probabilities and consequences, a point that was made in the publication of the Annex, but was not given adequate emphasis.

In July 1977 the NRC commissioned a Risk Assessment Review Group "to clarify the achievements and limitations of the Reactor Safety Study." One of the conclusions of this study, published in September 1978, as NUREG/CR-0400, "Risk Assessment Review Group Report to the U.S. Nuclear Regulatory Commission," was that "The Review Group was unable to determine whether the absolute probabilities of accident sequences in WASH–1400 are high or low, but believes that the error bounds on those estimates are in general, greatly understated." This and other findings of the Review Group have also subsequently been referred to in Environmental Impact Statements, along with a reference to the Commission's policy statement on the Reactor Safety Study in light of the Risk Assessment Review Group Report, published on January 18, 1979. The Commission's statement accepted the findings of the Review Group, both as to the Reactor Safety Study's achievements and as to its limitations.

A few Draft Environmental Statements have been published subsequent to the Three Mile Island accident. These were for conventional land-based light water reactor plants and continued to reflect the past practice with respect to accidents at such plants, but noted that the experience gained from the Three Mile Island accident was not factored into the discussion.

Our experience with past NEPA reviews of accidents and the TMI accident clearly leads us to believe that a change is needed.

Accordingly, the proposed Annex to Appendix D of 10 CFR Part 50, published on December 1, 1971, is hereby withdrawn and shall not hereafter be used by applicants nor by the staff. The reasons for the withdrawal are as follows:

[2] It is of interest that the Reactor Safety Study never refers to nor uses the term "Class 9 accident" although this term is commonly used as loosely equivalent to a core melt accident.

[3] NUREG–0139, February 1977.

[4] Docket No. STN 50–437, September 14, 1979.

1. The Annex proscribes consideration of the kinds of accidents (Class 9) that, according to the Reactor Safety Study, dominate the accident risk.

2. The definition of Class 9 accidents in the Annex is not sufficiently precise to warrant its further use in Commission policy, rules, and regulations, nor as a decision criterion in agency practice.

3. The Annex's prescription of assumptions to be used in the analysis of the environmental consequences of accidents does not contribute to objective consideration.

4. The Annex does not give adequate consideration to the detailed treatment of measures taken to prevent and to mitigate the consequences of accidents in the safety review of each application.

The classification of accidents proposed in that Annex shall no longer be used. In its place the following interim guidance is given for the treatment of accident risk considerations in NEPA reviews.

Accident Considerations in Future NEPA Reviews

It is the position of the Commission that its Environmental Impact Statements, pursuant to Section 102(c)(i) of the National Environmental Policy Act of 1969, shall include a reasoned consideration of the environmental risks (impacts) attributable to accidents at the particular facility or facilities within the scope of each such statement. In the analysis and discussion of such risks, approximately equal attention shall be given to the probability of occurrence of releases and to the probability of occurrence of the environmental consequences of those releases. Releases refer to radiation and/or radioactive materials entering environmental exposure pathways, including air, water, and ground water.

Events or accident sequences that lead to releases shall include but not be limited to those that can reasonably be expected to occur. In-plant accident sequences that can lead to a spectrum of releases shall be discussed and shall include sequences that can result in inadequate cooling of reactor fuel and to melting of the reactor core. The extent to which events arising from causes external to the plant which are considered possible contributors to the risk associated with the particular plant shall also be discussed. Detailed quantitative considerations that form the basis of probabilistic estimates of releases need not be incorporated in the Environmental Impact Statements but shall be referenced therein. Such references shall include, as applicable, reports on safety evaluations.

The environmental consequences of releases whose probability of occurence has been estimated shall also be discussed in probabilistic terms. Such consequences shall be characterized in terms of potential radiological exposures to individuals, to population groups, and, where applicable, to biota. Health and safety risks that may be associated with exposures to people shall be discussed in a manner that fairly reflects the current state of knowledge regarding such risks. Socioeconomic impacts that might be associated with emergency measures during or following an accident should also be discussed. The environmental risk of accidents should also be compared to and contrasted with radiological risks associated with normal and anticipated operational releases.

In promulgating this interim guidance, the Commission is aware that there are and will likely remain for some time to come many uncertainties in the application of risk assessment methods, and it expects that its Environmental Impact Statements will identify major uncertainties in its probabilistic estimates. On the other hand the Commission believes that the state of the art is sufficiently advanced that a beginning should now be made in the use of these methodologies in the regulatory process, and that such use will represent a contructive and rational forward step in the discharge of its reponsibilities.

It is the intent of the Commission in issuing this Statement of Interim Policy that the staff will initiate treatments of accident considerations, in accordance with the foregoing guidance, in its ongoing NEPA reviews, i.e., for any proceeding at a licensing stage where a Final Environmental Impact Statement has not yet been issued. These new treatments, which will take into account significant site- and plant-specific features, will result in more detailed discussions of accident risks than in previous environmental statements, particularly for those related to conventional light water plants at land-based sites. It is expected that these revised treatments will lead to conclusions regarding the environmental risks of accidents similar to those that would be reached by a continuation of current practices, particularly for cases involving special circumstances where Class 9 risks have been considered by the staff, as described above. Thus, this change in policy is not to be construed as any lack of confidence in conclusions regarding the environmental risks of accidents expressed in any previously issued Statements, nor, absent a showing of similar special circumstances, as a basis for opening, reopening, or expanding any previous or ongoing proceeding.[5]

However, it is also the intent of the Commission that the staff take steps to identify additional cases that might warrant early consideration of either additional features or other actions which would prevent or mitigate the consequences of serious accidents. Cases for such consideration are those for which a Final Environmental Statement has already been issued at the Construction Permit stage but for which the Operating License review stage has not yet been reached. In carrying out this directive, the staff should consider relevant site features, including population density, associated with accident risk in comparison to such features at presently operating plants. Staff should also consider the likelihood that substantive changes in plant design features which may compensate further for adverse site features may be more easily incorporated in plants when construction has not yet progressed very far.

Environmental Reports submitted by applicants for construction permits and for operating licenses on or after July 1, 1980 should include a discussion of the environmental risks associated with accidents that follows the guidance given herein.

Related Policy Matters Under Consideration

In addition to its responsibilities under NEPA, the NRC also bears responsibility under the Atomic Energy Act for the protection of the public health and safety from the hazards associated with the use of nuclear energy. Pursuant to this responsibility the Commission notes that there are currently a number of ongoing activities being considered by the Commission and its staff which intimately relate to the "Class 9 accident" question and which are either the subject of current rulemaking or are candidate subjects for rulemaking.

On December 19, 1979 the Commission issued for public comment[6] a proposed rule which would significantly revise its requirements in 10 CFR Part 50 for emergency planning for nuclear power plants. One of the considerations in this rulemaking was

[5] Commissioners Gilinsky and Bradford disagree with the inclusion of the preceding two sentences. They feel that they are absolutely inconsistent with an even-handed reappraisal of the former, erroneous position on Class 9 accidents.

[6] 44 FR 75167.

the potential consequences of Class 9 accidents in a generic sense.[7]

In August 1979, pursuant to the Commission's request, a Siting Policy Task Force made recommendations with respect to possible changes in NRC reactor siting policy and criteria,[8] currently set forth in 10 CFR Part 100. As stated therein, its recommendations were made to accomplish (among others) the following goal:

To take into consideration in siting the risk associated with accidents beyond the design basis (Class 9) by establishing population density and distribution criteria.

This matter is currently before the Commission.

This and other recommendations that have been made as a result of the investigations into the Three Mile Island accident are currently being brought together by the Commission's staff in the form of proposed Action Plans.[9] Among other matters, these incorporate recommendations for rulemaking related to degraded core cooling and core melt accidents. The Commission expects to issue decisions on these Action Plans in the near future. It is the Commission's policy and intent to devote NRC's major resources to matters which the Commission believes will make existing and future nuclear power plants safer, and to prevent a recurrence of the kind of accident that occurred at Three Mile Island. In the interim, however, and pending completion of rulemaking activities in the areas of emergency planning, siting criteria, and design and operational safety, all of which involve considerations of serious accident potential, the Commission finds it essential to improve its procedures for describing and disclosing to the public the basis for arriving at conclusions regarding the environmental risks due to accidents at nuclear power plants. On completion of the rulemaking activities in these areas, and based also upon the experience gained with this statement of interim policy and guidance, the Commission intends to pursue possible changes or additions to 10 CFR Part 51 to codify its position on the role of accident risks under NEPA.

Dated at Washington, D.C., this 9th day of June 1980.

[7] Cf. NUREG–0396, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," November 1978.

[8] NUREG–0625, "Report of the Siting Policy Task Force," August 1979.

[9] Draft NUREG-0660, "Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the TMI–2 Accident." December 10, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–17952 Filed 6–12–80; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 210, 212

[Docket No. ERA–R–79–32E]

Resellers' and Reseller-Retailers' Price Rules for Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby adopts three amendments to its reseller and reseller-retailer price rules. First, small resellers and reseller-retailers (sales in calendar year 1979 of 5 million gallons of gasoline or less) are permitted the option of computing "acquisition cost" using the firm's historical accounting practices consistently applied. Second, the normal business practices rule is amended to treat reseller-retailers consistently with independent retailers with respect to retail gasoline sales. Third, the exception to the refiner equal application rule regarding retail sales by consignee-agents is reinstated.

DATE: Effective May 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–3757

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room 110–B, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–4055

Chuck Boehl (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7204, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–3202

William Funk or William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6736 or 252–6754

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments
III. Procedural Requirements

I. Background

On April 26, 1980 (45 FR 29546, May 2, 1980) DOE issued new price rules for resellers and reseller-retailers of gasoline. Generally, the new rules permit resellers and reseller-retailers to compute maximum lawful selling prices based on the acquisition cost of the type or grade of gasoline, plus a fixed cents per gallon markup depending on the type of sale, plus tax costs.[1] The new rules are similar to the retailer price rules adopted in July 1979.

Under the new rules, acquisition cost is defined as the last purchase price for sellers with gasoline sales of 5 million gallons or less in calendar year 1979. For sellers with sales of more than 5 million gallons of gasoline in calendar year 1979, acquisition cost is defined as the cost of product in inventory computed pursuant to the seller's historical accounting practices consistently applied.[2]

Generally, the retailer price rules adopted in July 1979 permit retailers to alter their normal business practices with respect to sales of gasoline. The new reseller-retailer rules do not contain a similar provision. However, in most other respects the July 1979 price rules for independent retailers and the new reseller-retailer price rules are similar.

Finally, the restriction on the amount of increased commissions that may be passed through in price increases by refiners was removed. In doing so, however, the provision that permitted refiners an exception to the equal application rule to reflect increased commissions in the retail selling price charged by commission agents was deleted.

II. Amendments

Comments received by DOE since the issuance of the rule indicate that a few small sellers would prefer to use the cost of product in inventory rather than the last purchase price to determine acquisition cost. Generally these sellers purchase product from more than one supplier at widely varying prices.

[1] With respect to establishing the maximum lawful selling price for gasohol, which is the subject of a Notice of Proposed Rulemaking (45 FR 34846, May 22, 1980), notwithstanding statements to the contrary in that rulemaking, the new price rules for resellers, reseller-retailers, and retailers permit sellers that blend gasohol to establish a maximum lawful selling price for gasohol in a manner that treats the gasoline and alcohol components of gasohol as separate products under the price rules. Accordingly, the acquisition cost of each is a component of the blender's maximum lawful selling price for gasohol.

[2] If a firm has consistently and historically used more than one accounting practice for determining the cost of product in inventory (e.g., one for DOE's price rules and one for income tax purposes), the firm may choose either of these accounting practices to determine the cost of product in inventory under the new, fixed margin reseller and reseller-retailer rule. The firm, of course, must consistently apply that practice under the new rule.

Accordingly, they want to use the cost of product in inventory to compute their maximum lawful selling price in order to prevent their prices from fluctuating with each purchase.

In most instances, the last purchase price will be a higher price than the cost of product in inventory and therefore would result in a higher maximum lawful selling price. Thus, sellers which elect to calculate acquisition cost by using the cost of product in inventory generally will have a lower maximum lawful selling price than firms which elect to use the last purchase price. Accordingly, DOE is amending the definition of acquisition cost to permit small sellers the option of using the cost of product in inventory to calculate acquisition cost. Small sellers must make a one time election as to which definition of acquisition cost they will use and may not, at any time, use the other definition.

The 5 million gallons in sales in calendar year 1979 determination is made on a firm-wide basis and not on the basis of individual inventories. This is clarified in the amendment adopted today and is consistent with other DOE rules and interpretations.

To the extent that resellers and reseller-retailers have for purposes of DOE's price rules historically calculated inventory cost on a separate inventory basis, rather than on the generally required firm-wide basis, they may calculate "acquisition cost" on the same separate inventory basis. For example, if a small reseller or reseller-retailer historically had separate inventories, it may continue to use the last purchase price or cost of product in inventory for the particular inventory to determine acquisition cost. However, a firm must use the same method of determining acquisition cost for all of its inventories. Similarly, a large reseller may compute the cost of product in inventory on the basis of separate inventories where historically it has established its prices under DOE's rules on a separate inventory basis.

The normal business practices rule found in Section 210.62 is amended to permit reseller-retailers to alter their business practices in the same manner permitted independent retailers in the July 1979 amendments. Specifically, in retail gasoline sales, reseller-retailers may charge for additional services provided at the retail outlet, except for the pumping of gasoline. Also, reseller-retailers may offer retail discounts, premiums, and different commodities, credit terms or schedules, and equipment than were previously offered or sold.

The deletion of the exception to the equal application rule which permits refiners to increase the selling price charged by their consignee-agents without having such price increases deemed to be recouped in all other selling prices is corrected. The exception is placed, however, in the equal application rule found in § 212.83(h) and not in the general price formula found in § 212.83(c).

III. Procedural Requirements

A. Section 501 of the DOE Act

Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b)–(d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, United States Code.

These amendments to §§ 210.62, 212.83, and 212.92 raise no substantial issues of fact or law. Furthermore, the rules are unlikely to have a substantial impact on the Nation's economy since they merely provide certain small sellers of gasoline an option with respect to the computation of acquisition cost of gasoline for purposes of determining maximum lawful selling prices, treat business practices with respect to retail gasoline sales by reseller-retailers in a manner consistent with those allowed independent retailers, and adopt a provision governing the equal application rule's impact on fees paid to commission agents. For the same reasons, the amendments are not likely to have a substantial impact on large numbers of individuals or businesses. Therefore, the amendments shall be promulgated in accordance with section 553 of Title 5 U.S.C., pursuant to section 501(c) of the DOE Act.

B. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest. We find that the advance notice and public comment procedures of section 553(b) are unnecessary with respect to two of these amendments, since they are being issued solely to provide certain small resellers and reseller-retailers an option with respect to the computation of acquisition cost and to treat retail business practices by independent retailers and reseller-retailers in a similar manner. Furthermore, general notice of these issues and specific notice with respect to the equal application rule provision were published in DOE's notice of proposed rulemaking entitled "Resellers' and Reseller-Retailers' Price Rules for Gasoline" (44 FR 69602, December 3, 1979).

Subsection (d) of section 553 requires that the publication of a rule be made at least 30 days before the effective date of the rule, unless the rule relieves a restriction. These rules are being issued to relieve regulatory restrictions imposed on resellers and reseller-retailers. These amendments, to have their requisite effect, therefore, must be made retroactive to May 1, 1980, the date that the new reseller and reseller price rules were effective.

C. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for advance public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures give as an example of a nonsignificant regulation an amendment that is determined to be exempt from the public notice requirements of the Administrative Procedures Act. These amendments fit that description.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 210 and 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended as set forth below, effective May 1, 1980.

Issued in Washington, D.C., June 6, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

PART 210—GENERAL ALLOCATION AND PRICE RULES

1. Section 210.62(d) is revised to read as follows:

§ 210.62 Normal business practices.

* * * * *

(d) Notwithstanding the provisions of this section:

(1) A retailer or reseller-retailer, which establishes its maximum lawful selling prices pursuant to § 212.93(a)(2), in retail sales of gasoline may charge a fee for services offered for sale by the seller provided:

(i) The fee is not computed on a cents per gallon basis; and

(ii) The purchase of gasoline by the ultimate consumer is not contingent upon the purchase of any other service.

(2) A retailer or reseller-retailer, which establishes maximum lawful selling prices pursuant to § 212.93(a)(2), shall not charge a fee to "pump" or dispense gasoline to the ultimate consumer.

(3) A retailer or reseller-retailer, which establishes maximum lawful selling prices pursuant to § 212.93(a)(2), in retail sales may offer discounts, premiums, and different commodities, services, credit terms or schedules, and equipment than previously offered or sold.

* * * * *

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

2. Section 212.83(h)(3) is amended to add a new subparagraph (iii) to read as follows:

§ 212.83 Price rule.

* * * * *

(h) *Equal application among classes of purchaser.* * * *

(3) *Exceptions.* * * *

(iii) Beginning January 1, 1980 the provisions in subparagraph (1) and (2) of this paragraph do not apply to a price charged by a refiner for gasoline sold through a consignee-agent: *Provided,* The price charged by the refiner for such gasoline is not greater than the price charged in any other retail gasoline sale plus the commission paid to the consignee-agent for the sale of that gasoline.

3. Section 212.92 is revised in paragraph (b) in the definition of "Acquisition cost" to read as follows:

§ 212.92 Definitions.

For purposes of this subpart—

"Acquisition cost" means:

* * * * *

(b) for resellers and reseller-retailers, the cost of product in inventory computed pursuant to the seller's historical accounting practices consistently applied. Resellers and reseller-retailers, which on a firm-wide basis sold five million gallons or less of a product during calendar year 1979, may use the actual purchase price paid for the most recent purchase of that product to calculate acquisition cost. A seller shall consistently use either the actual purchase price or the cost of product in inventory to compute acquisition cost.

* * * * *

[FR Doc. 80-17957 Filed 6-12-80; 8:45 am]

BILLING CODE 6450-01-M

10 CFR Part 212

[Docket No. ERA-R-77-1C]

Amendment To Permit Higher Prices for Tertiary Incentive Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Tertiary Incentive Program ("incentive program") set forth at 10 CFR 212.78 of the Mandatory Petroleum Price Regulations to exclude from the calculation of a producer's tertiary incentive revenue the amount of windfall profit tax attributable to the additional revenue that a producer receives as a result of the incentive program. This change is intended to coordinate the provisions of the incentive program with the provisions of the Windfall Profit Tax Act of 1980.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, Room 2222–A, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–3757

William L. Webb (Office of Public Information), Room B–110, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–4055

Douglas Harnish (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7302–G, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–3202

Rendel Alldredge (Office of Fuels Regulation), Economic Regulatory Administration, Room 6128, 2000 M Street, NW., Washington, D.C. 20461 (202) 653–3379

Lisle Reed (Resource Applications), Department of Energy, Room 3334, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633–8395

William Funk or Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6739

SUPPLEMENTARY INFORMATION:

I. Background

II. Amendment Adopted

III. Prepaid Expenses

IV. Procedural Requirements

I. Background

On August 21, 1979, ERA amended 10 CFR 212.78 to establish the incentive program under which producers can recover some of the cost they incur as a result of their participation in enhanced oil recovery ("EOR") projects, (44 FR 51148, August 30, 1979). This program permits producers to sell at market prices crude oil that would otherwise be subject to lower tier or upper tier ceiling price limitations as long as the tertiary incentive revenue from such sales does not exceed seventy-five percent of the money that the producer has spend on certain expenses associated with EOR projects.

In general, tertiary incentive revenue is the additional revenue that results from selling crude oil at the market price rather than at the otherwise applicable ceiling price. In proposing the incentive program, ERA recognized that the allowance of a higher selling price would result in additional taxes on the crude oil. Since payment of these additional taxes would reduce the actual incentive received by the producer, ERA proposed and adopted a definition of tertiary incentive revenue as the difference between the market price for crude oil sold under the incentive program and the otherwise applicable ceiling price, less any *ad valorem* or severance taxes that must be paid as a result of the higher price.

In the incentive program proposal, ERA asked whether payment of any other tax should be excluded from the calculation of tertiary incentive revenue. Several firms commented that the then proposed Windfall Profit Tax ("Tax") would have a much greater impact than state severance taxes. Although ERA had recognized the potential effect of the Tax, the proposed definition of tertiary incentive revenue did not take account of the Tax because it had not been enacted into law. Since the Tax still had not been enacted when the incentive program was adopted, ERA kept the rulemaking proceeding open for

the limited purpose of amending the definition of tertiary incentive revenue when the Tax was enacted.

On April 2, 1980, the President signed the Windfall Profit Tax Act of 1980 (Pub. L. 96–223). In many instances, the Tax will result in a producer's paying to the federal government as much as seventy percent of the additional revenues that it receives from the incentive program, which would have the practical effect of reducing the additional revenue that a producer has available for its EOR project. Accordingly, ERA has decided to exclude windfall profit tax liabilities from the calculation of tertiary incentive revenue.

II. Amendment Adopted

The definition of tertiary incentive revenue set forth in 10 CFR 212.78(c) is amended to provide that in determining the amount of tertiary incentive revenue which a producer receives from sales of crude oil pursuant to the incentive program, the producer shall deduct from its additional revenues the amount of the windfall profit tax that is attributable to the additional revenues.

Thus, a producer can continue to sell oil at market prices until it receives enough additional revenue to allow it to recover all its allowed expenses and to pay the windfall profit tax attributable to the additional revenue. Since this modification is intended to coordinate the provisions of the incentive program and the provisions of the Tax, its effective date is March 1, 1980, which is also the effective date of the Tax.

III. Prepaid Expenses

Several producers have asked ERA whether a producer may recover so-called prepaid expenses, that is, expenses which are attributable to items that will not be used in connection with an EOR project until sometime after payment. ERA's incentive program does not contain a limitation concerning prepaid expenses, whether they are attributable to items used before or after October 1, 1981.[1] For example, a producer could recover the expense of carbon dioxide, even though it did not intend to inject the carbon dioxide until 1982 or later.[2] Of course, any expense must be consistent with the proper operation of an EOR project and not merely a means to evade the ceiling price limitations.

IV. Procedural Requirements

As noted above, when ERA proposed the incentive program, it requested comments concerning the need to reduce tertiary incentive revenue by the amount of any taxes attributable to the additional revenue that a producer received as a result of the incentive program. Members of the public were provided with a public hearing and a sixty-day comment period on all aspects of the proposed incentive program. Thus, the prior hearing and notice requirements of section 501 of the DOE Act and Executive Order 12044 with respect to today's amendment were satisfied prior to the adoption of the incentive program in August 1979. In fact, today's amendment would have been adopted in August 1979 if the Tax had been enacted at that time. in this regard, it should be noted that the rulemaking on the incentive program was kept open for the express purpose of adopting today's amendment. Moreover, today's action has no effect beyond ensuring that producers receive the same incentive that they would have received if the Tax had not been enacted.

In accordance with section 404 of the Department of Energy Organization Act ("DOE Act," 42 U.S.C. 7101 *et seq.*), the Federal Energy Regulatory Commission received a copy of this rule and has declined to determine that the rule may significantly affect any of its functions under sections 402(a)(1)(b), or (c)(1) of the DOE Act.

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. A copy of this rule was provided to the EPA Administrator who responded that EPA does not foresee this rule having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of EPA.

Subsection (d)(1) of Section 553 provides that the required publication of a rule be made at least 30 days before the effective date of the rule, except when the rule relieves a regulatory constraint, is a non-substantive amendment, or the agency finds good cause for not publishing the rule. ERA has determined that the 30 day requirement does not apply because the final rule adopted today relieves a regulatory restriction and does not impose additional burdens on the firms concerned. ERA also has determined that there is good cause to waive the section 553(d) requirement since the Tax has an effective date of March 1, 1980. Unless the effective date of this rule and that of the Tax are coordinated, producers involved in EOR projects might be adversely affected. Accordingly, this rule has an effective date of March 1, 1980.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, ERA amends 10 CFR 212.78(c), as set forth below, effective March 1, 1980.

Issued in Washington, D.C., June 6, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 212.78 [Amended]

The definition of "tertiary incentive revenue" in CFR 212.78(c) is revised as follows:

* * * * *

"Tertiary incentive revenue" means, in the case of first sales of crude oil pursuant to the provisions of subsection (a)(2), the excess of the market-clearing price over the otherwise applicable ceiling price less any *ad valorem*, severance or windfall profit tax attributable to this excess.

* * * * *

[FR Doc. 80–17958 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

[1] The definitions of allowed expense and recoupable allowed expense do establish as a condition precedent to the recovery of an expense the requirement that the expense must have been incurred and paid. An expense is incurred when its payment is due under a binding and enforceable written contract. An expense is paid when a producer satisfies its obligation to pay by transferring money to the supplier of the good or service. Thus, a producer cannot recover an expense unless and until it has a legal obligation to pay the expense and it actually pays the expense.

[2] Although use of a good or service in connection with a particular EOR project is not a condition precedent to the recovery of its expense, it is a condition subsequent to such recovery. Thus, a producer must make restitution of any benefit which it receives as a result of its recovering the expense of a good or service with respect to a particular EOR project if that good or service is not used in connection with that EOR project.

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202/452–3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. 553 (b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	12	May 29, 1980.
New York	12	May 30, 1980.
Philadelphia	12	May 29, 1980.
Cleveland	12	May 29, 1980.
Richmond	12	May 29, 1980.
Atlanta	12	May 29, 1980.
Chicago	12	May 29, 1980.
St. Louis	12	May 29, 1980.
Minneapolis	12	May 29, 1980.
Kansas City	12	May 29, 1980.
Dallas	12	May 29, 1980.
San Francisco	12	May 29, 1980.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	12½	May 29, 1980.
New York	12½	May 30, 1980.
Philadelphia	12½	May 29, 1980.
Cleveland	12½	May 29, 1980.
Richmond	12½	May 29, 1980.
Atlanta	12½	May 29, 1980.
Chicago	12½	May 29, 1980.
St. Louis	12½	May 29, 1980.
Minneapolis	12½	May 29, 1980.
Kansas City	12½	May 29, 1980.
Dallas	12½	May 29, 1980.
San Francisco	12½	May 29, 1980.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	13	May 29, 1980.
New York	13	May 30, 1980.
Philadelphia	13	May 29, 1980.
Cleveland	13	May 29, 1980.
Richmond	13	May 29, 1980.
Atlanta	13	May 29, 1980.
Chicago	13	May 29, 1980.
St. Louis	13	May 29, 1980.
Minneapolis	13	May 29, 1980.
Kansas City	13	May 29, 1980.
Dallas	13	May 29, 1980.
San Francisco	13	May 29, 1980.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	15	May 29, 1980.
New York	15	May 30, 1980.
Philadelphia	15	May 29, 1980.
Cleveland	15	May 29, 1980.
Richmond	15	May 29, 1980.
Atlanta	15	May 29, 1980.
Chicago	15	May 29, 1980.
St. Louis	15	May 29, 1980.
Minneapolis	15	May 29, 1980.
Kansas City	15	May 29, 1980.
Dallas	15	May 29, 1980.
San Francisco	15	May 29, 1980.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, June 4, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80–17926 Filed 6–12–80; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 522

[No. 80–365]

Dividends to Member Institutions

June 6, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This regulatory amendment authorizes the board of directors of each Federal Home Loan Bank to declare, with approval of the Board, a dividend to stockholders of record on December 31 or on such dates as the Board may establish. The amendment enables the Banks to declare quarterly dividends for the remainder of 1980, in conformity with the Board's 1980 dividend policy.

EFFECTIVE DATE: June 13, 1980.

FOR FURTHER INFORMATION, CONTACT: Kenneth F. Hall, Attorney Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6443).

SUPPLEMENTARY INFORMATION: Section 522.6 of the Bank System Regulations (12 CFR 522.6) currently provides that the board of directors of each Federal Home Loan Bank ("Bank") may, with the Board's approval, declare a dividend annually to stockholders of record as of the close of business on December 31. The Board believes that restriction of dividend payments to an annual basis provides the Banks with insufficient flexibility to meet the earnings needs of their members. Therefore, the Board has determined to amend § 522.6 to enable the Banks to pay dividends on such dates as may be established by the Board. The Board is also amending § 522.6 to reflect that dividends may be paid in cash or, if authorized by the Board, in the form of stock.

The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11 because this amendment will provide relief to members of the Bank System and therefore is in the public interest, and (2) publication of this amendment for the 30-day period specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to the effective date is unnecessary for the same reason.

Accordingly, the Board hereby revises § 522.6 of the Regulations for the Federal

Home Loan Bank System (12 CFR 522.6) to read as set forth below.

PART 522—ORGANIZATION OF THE BANKS

§ 522.6 Dividends.

The board of directors of each Bank may, with the approval of the Board, declare a dividend from net earnings, the dividend stabilization reserve, and undivided profits to stockholders of record as of the close of business on December 31, or on such dates as the Board may establish, on the paid-in value of capital stock outstanding on the record date. Dividends on such stock shall be computed only for the period such stock was outstanding during the interval between the record date and the immediately preceding record date. Dividends may be paid in cash or, with the approval of the Board, in the form of stock.

(Sec. 17, 47 Stat. 736, as amended, 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 80-17959 Filed 6-12-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 531

[No. 80-367]

Statements of Policy; Amendment to Policy on Advances

June 6, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This rule amends the Board's policy statement regarding advances by Federal Home Loan Banks ("Banks") to their members. Under present policy, a Bank may not, except with Board approval, make advances to permit a member to pay savings account withdrawals that were requested or suggested by the member. Under this amendment, if savings withdrawals occur as a result of a member's reducing interest rates on savings accounts that receive interest at rates based on money market rates or its discontinuing offering those accounts, a Bank may make special advances to the member to replace the funds withdrawn, provided the advances are made at a rate of interest at least as high as the higher of the Bank's highest rate on advances, or its highest cost of funds, at the time of the advance. The amendment is intended to provide greater discretion to Banks and increased flexibility to association management.

EFFECTIVE DATE: June 12, 1980.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6466).

SUPPLEMENTARY INFORMATION: Section 531.1 of the Regulations for the Federal Home Loan Bank System (12 CFR 531.1) describes the policy of the Federal Home Loan Bank Board regarding advances by Federal Home Loan Banks to their members. Under that statement of policy, advances may not be made to permit redemption of accounts or payments of withdrawals requested or suggested by the member, except in rare circumstances and with Board approval.

The Board has determined to amend its policy on advances by stating that, if a member fails to pay competitive rates of interest on its savings accounts or fails to offer or renew certain types of accounts, especially accounts with a $100,000 minimum amount and accounts that pay interest rates based on money market rates, and as a result, savings withdrawals occur, special advances may be made to the member to replace those withdrawals, provided they are made at a rate of interest at least as high as the Bank's highest cost to obtain new funds at the time the advance is made, or its highest rate on advances at that time, whichever is higher.

The Board recognizes that determining whether to offer or continue offering savings accounts at rates based on current market rates is a prerogative of the management of each member institution. However, management should be aware that if such a decision is likely to result in withdrawals, and the member intends to rely on advances from its Bank to replace those withdrawals, the advances will be made at market rates.

The Board believes that, in view of the liberalizing nature of this change and its timeliness, notice and public procedure with respect to the amendment is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. § 553(b); and since publication of such amendment for the period of time specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to the effective date of the amendment would, in the opinion of the Board, likewise be unnecessary for the same reasons, the Board hereby provides that the amendment shall become effective as above provided.

Accordingly, the Federal Home Loan Bank Board hereby amends paragraph (a) of § 531.1 of the Regulations for the Federal Home Loan Bank System by adding a sentence following the fourth sentence thereof, to read as follows:

PART 531—STATEMENTS OF POLICY

§ 531.1 Policy on advances.

(a) * * * If a Bank determines that a member is requesting advances to replace certificate accounts that were withdrawn at maturity, and the withdrawals resulted from the member's being uncompetitive with respect to rate or by the member's discontinuing offering or not renewing the certificates, the Bank may offer special advances to the member for that purpose, provided the interest rate on any such advance at least equals the higher of the Bank's highest rate on advances, or its highest cost to obtain new funds, at the time the advance is made. * * *

* * * * *

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 80-17961 Filed 6-12-80; 8:45 am]

BILLING CODE 6720-01-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0009]

Interest on Deposits; Penalty for Early Withdrawals of Time Deposits Funds

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Technical amendment to final rule.

SUMMARY: This technical amendment clarifies the application of the early withdrawal penalty rule adopted by the Depository Institutions Deregulation Committee ("Committee") on May 28, 1980, to withdrawals from time deposits with original maturities of less than three months. The rule provides that where a time deposit with an original maturity of less than three months, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to the amount of interest that could have been earned on the amount withdrawn at the nominal contract rate if the funds had remained on deposit until maturity.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: John Hall, Attorney, Federal Home Loan Bank Board (202/377–6466), Debra Chong, Attorney, Office of the

Comptroller of the Currency (202/447–1632), F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation (202/389–4324), Anthony F. Cole, Senior Attorney, Federal Reserve Board (202/452–3612), or Allan Schott, Attorney-Advisor, Treasury Department (202/566–6798).

SUPPLEMENTARY INFORMATION: On May 28, 1980, the Committee adopted a final rule, effective June 2, 1980, concerning the penalty for early withdrawals of time deposit funds. The rule provides for a minimum required penalty of a forfeiture of an amount equal to three months of interest earned or that could have been earned, at the nominal contract rate, on the funds withdrawn where the time deposit has an original maturity of one year or less and six months of interest earned or that could have been earned, at the nominal contract rate, on the funds withdrawn where the time deposit has an original maturity of more than one year, *regardless* of the length of time the funds have remained on deposit.

This amendment is intended to clarify the intent of the Committee that where funds are withdrawn prior to maturity from a time deposit with an original maturity of less than three months, the minimum required penalty is the amount of interest that could have been earned at the nominal contract rate if the time deposit funds had remained on deposit to maturity. Thus, for example, where funds are withdrawn prior to maturity from a time deposit with an original maturity of 45 days, the minimum required penalty is the forfeiture of an amount equal to the amount of interest at the nominal contract rate that could have been earned on such funds for 45 days.

In view of the fact that this is a technical amendment that clarifies the intent of the Committee's earlier action, the Committee finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this action would be contrary to the public interest, and that good cause exists for making this action effective June 2, 1980.

Pursuant to its authority under Title II of Pub. L. 96–221, 94 Stat. 142 (12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commercial banks, savings and loan associations and mutual savings banks, effective June 2, 1980, the Committee amends § 1204.103 of 12 CFR Part 1204 as follows:

PART 1204—INTEREST ON DEPOSITS

§ 1204.103 Penalty for early withdrawals.

Where a time deposit with an original maturity of three months or more to one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to three months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit. Where a time deposit with an original maturity of less than three months, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to the amount of interest that could have been earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit had the funds remained on deposit until maturity. Where a time deposit with an original maturity of more than one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

By order of the Committee, June 6, 1980.

Normand R. V. Bernard,

Executive Secretary of the Committee.

[FR Doc. 80–17925 Filed 6–12–80; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 429, 431, and 514

[Docket No. 79N–0175]

Certification of Antibiotics and Insulin; Financial Responsibility of Agents

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations on certification of antibiotic drugs for human use, certifiable antibiotics for veterinary use, and insulin, to revoke the requirement that a request for batch certification from a foreign manufacturer be signed by an agent of the foreign manufacturer who resides in the United States. The agent's signature has become unnecessary because other regulations ensure the financial accountability of the foreign manufacturer for certification fees and because other antibiotic and insulin drug approval requests adequately provide for the appointment of an agent for service of process.

EFFECTIVE DATE: July 14, 1980.

FOR FURTHER INFORMATION CONTACT: Howard P. Muller, Jr., Bureau of Drugs (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 14, 1979 (44 FR 47548), FDA proposed to amend the regulations on certification of antibiotic drugs for human use, certifiable antibiotics for veterinary use, and insulin, to revoke the requirement that a request for batch certification from a foreign manufacturer be signed by an agent of the foreign manufacturer who resides in the United States. The proposal explained that the financial responsibility provision has proven to be an additional expense for foreign manufacturers who must compensate agents for the service, with no apparent benefits accruing to the manufacturer, the consumer, or FDA. Furthermore, the proposal pointed out that other regulations ensure the financial accountability of the foreign manufacturer. Section 429.55 (a) and (b) (insulin) (21 CFR 429.55 (a) and (b)), § 431.53(e) (antibiotics for human use) (21 CFR 431.53(e)), and § 514.60 (certifiable antibiotics for veterinary use) (21 CFR 514.60) all provide that fees for certification services rendered accompany the request for certification, unless the fees are covered by an advance deposit maintained in accordance with § 429.55(c) (for insulin) or § 431.53(d) (for human and animal antibiotics). In addition, other antibiotic and insulin drug approval requests adequately provide for the appointment of an agent for service of process. The request for certification for a wholly new antibiotic drug for which no monograph exists, i.e., an antibiotic Form 5 (Form FDA–1675), and a request for certification for a new antibiotic drug for which a monograph has been published, i.e., an antibiotic Form 6 (Form FDA–1675), that are submitted by a foreign manufacturer, must also be signed by an agent of the manufacturer who resides in the United States. In addition, there are cosigning requirements for agents in the new animal drug application (NADA) provisions (§ 514.1(a)) and, in the case of insulin, in the new drug application provision (§ 314.1). The proposal is adopted in the form proposed.

The agency received only four comments on the proposal. Two of these

supported the proposed amendments. A third comment favored the elimination of the U.S. agent in forwarding antibiotics for certification, but thought the final rule should authorize a U.S. agent that FDA could contact about any difficulties in the certification procedures. The comment pointed out that if FDA had to correspond with the manufacturer by transatlantic mail, there could be delays which would affect the sale and shipment of the antibiotics. Another comment said it would prefer to continue using its U.S. agent to submit requests for certification and to assume financial responsibility for the payment of certification fees.

The agency advises that these amendments do not prohibit a foreign manufacturer from maintaining a U.S. agent for purposes of antibiotic certification. If a foreign manufacturer concludes that the use of a U.S. agent would help relations with its U.S. market and with FDA, that manufacturer should feel free to retain the agent. As explained in the proposal, this regulation only revokes the requirement that a U.S. agent sign the batch certification request, because FDA believes that other regulatory safeguards exist which ensure the financial accountability of the foreign manufacturer and which provide for the appointment of an agent for service of process. Thus, from FDA's standpoint the current requirement is unnecessary. The agency understands, however, that for other reasons a foreign manufacturer may find it advantageous to continue using a U.S. agent in its antibiotic certification dealings with FDA. FDA has no objections to this practice.

For those foreign manufacturers who wish to discontinue the practice of having a U.S. agent countersign certification requests, the Certification Services Branch of FDA's Bureau of Drugs is making available an information letter including procedures for the shipping of Requests for Certification (including samples), clearance through U.S. Customs, notification of certification directly to foreign manufacturers by telecommunications, and mailing of certificates directly to foreign manufacturers. This letter will be sent to all antibiotics and insulin foreign manufacturers who currently submit requests for certification. Additional copies are available on request from the Certification Services Branch (HFD–332), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 506, 507, 512(n), 701(a), 52 Stat. 1055, 55 Stat. 851, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 356, 357, 360b(n), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

1. Part 429 is amended in § 429.40 by revising paragraph (a) to read as follows:

§ 429.40 Requests for certification; samples; storage; approvals preliminary to certification.

(a) A request for certification of a batch is to be addressed to the Food and Drug Administration, Division of Drug Biology (HFD–410), 200 C St. SW., Washington, DC 20204.

* * * * *

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

2. Part 431 is amended in § 431.1 by revising paragraph (a) to read as follows:

§ 431.1 Requests for certification, check tests and assays, and working standards; information and samples required.

(a) A request for certification of a batch (antibiotic Form 7/Form FDA–1677) is to be addressed to the Food and Drug Administration, National Center for Antibiotic Analysis (HFD–430), 200 C St. SW., Washington, DC 20204.

* * * * *

PART 514—NEW ANIMAL DRUG APPLICATIONS

3. Part 514 is amended in § 514.50 by revising paragraph (a) to read as follows:

§ 514.50 Requests for certification, check tests and assays, and working standards for animal drugs subject to section 512(n) of the act; information and samples required.

(a) A request for certification of a batch (antibiotic Form 7/Form FDA–1677) is to be addressed to the Food and Drug Administration, National Center for Antibiotic Analysis (HFD–430), 200 C St. SW., Washington, DC 20204.

* * * * *

Effective date: These amendments are effective July 14, 1980.

(Secs. 506, 507, 512(n), 701(a), 52 Stat. 1055, 55 Stat. 851, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 356, 357, 360b(n), 371(a)))

Dated: June 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–17841 Filed 6–12–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commission

24 CFR Part 888

[Docket No. R–80–823]

Low Income Housing; Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim Rule.

SUMMARY: Section 8 Fair Market Rents applicable to new construction and substantial rehabilitation for all market areas, in compliance with the requirements of Section 8(c)(1) of the U.S. Housing Act of 1937, are published annually in the **Federal Register.** HUD first proposed the last annual revision of the Fair Market Rents applicable to new construction and substantial rehabilitation on October 31, 1979 and they were made effective back to October 1, 1979 when they were published as a final rule in January 1980.

These Fair Market Rents were based on then prevailing rents and costs in the different areas and reflect the then anticipated rate of increase in construction and financing costs. The unprecedented nature of the rise in interest rates since October 1979 has meant that the existing schedules do not reflect prevailing rents and costs. The Department is publishing a Financing Adjustment Factor for use in amending the applicable Fair Market Rents to reflect the extent to which costs for certain categories of projects are influenced by these increased financing costs. When the Fair Market Rents are updated for fiscal year 1981 the Department will consider adopting a similar approach to facilitate adjustments for unanticipated changes in financing costs in future years.

DATES: *Comments due:* June 27, 1980. *Effective date:* July 3, 1980.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW.,

Washington, D.C. 20410, (202) 755–7603. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: John M. McGuire, Director, Technical Support Division, Office of State Agency and Bond Financed Programs, 451 7th Street, SW., Washington, D.C. 20410, (202) 426–0035. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: 1. For all Section 8 new construction or substantial rehabilitation projects, except the category of "fixed rate projects", (e.g., those financed with direct loans under Section 202 and Farmers Home Section 515 or with mortgages purchased by the Government National Mortgage Association (GNMA) Tandem program for Section 8 assisted projects) the October 1, 1979 Fair Market Rents may be multiplied by a Financing Adjustment Factor of 115 percent to determine the applicable Fair Market Rents (Adjusted Fair Market Rent schedule). These higher rents will only be used when the cost of permanent financing is established after HUD approves the Contract Rents and it is higher than anticipated during processing. Use of the Factor will permit processing to continue on all Section 8 assisted projects without their progress being affected by the current fluctuations in the money markets. The Department may, by publication in the **Federal Register**, withdraw use of this factor, except that any modification shall not be effective to reduce the applicable Fair Market Rents with respect to any project for which an Application for Assignment of a Portion of Set-Aside to a Specific Project (that is site-specific) or a proposal has been approved under 24 CFR Part 883 or for which a Preliminary or Final Proposal has been approved under 24 CFR Parts 880 or 881.

2. Projects eligible to use the Fair Market Rent schedule derived from use of the Factor are subject to all outstanding processing instructions pursuant to 24 CFR Parts 811, 880, 881 or 883. Eligible projects will include any "non-fixed" rate project processed during the period between the effective date of this regulation and the next annual update of the Fair Market Rents scheduled for October 1980. To qualify for the Adjusted Fair Market Rent schedule, during processing, the finance agency and owner must agree (1) to use the Fair Market Rent schedule in effect prior to application of the Factor (basic schedule) and (2) to use a mortgage interest rate specified by HUD in establishing the Contract Rents. The Department currently anticipates this mortgage interest rate will be set at 8.5 percent.

When the actual interest rate on the permanent financing for such a project is established, the financing agency will be required to certify to HUD the actual terms of the permanent financing as currently required. Based on this certification, HUD will adjust the approved contract rents upward or downward and use the Adjusted Fair Market Rent schedule only when these adjusted contract rents exceed 120 percent of the Basic Fair Market Rent schedule used earlier during processing. Supplemental instructions will be issued to explain these procedures.

This system will ensure that the Adjusted Fair Market Rent schedule will be used only when necessary for increases in financing and not to provide for higher construction costs. It will also permit owners and financing agencies to continue processing projects during periods of uncertain market conditions with some assurance that the projects will be feasible when permanent financing is sought. Finally, it will permit financing agencies to determine the maximum interest rate for the permanent loan at which a project is feasible by calculating the maximum contract rent and, hence, the maximum dollar amount available to support the debt service on the permanent mortgage.

3. The percentage of the factor has been determined after review of the rate of change in interest rates since the establishment of the Basic Fair Market Rent schedule effective October 1, 1979. A review of data indicates that, on the average, for 41 metropolitan areas in which tax-exempt financing is heavily used, an adjustment of 15 percent is sufficient to accommodate the type of interest rate changes that have occurred since October 1979.

The Secretary has determined that the Fair Market Rent adjustment factor provided for in this regulation is urgently needed to enable finance agencies and developers to continue processing of Section 8 projects without interruptions due to fluctuations in the financing markets. The wide swings in interest rates since October 1979 have meant that financing agencies and developers are reluctant to invest the time and money required to bring a project to construction start if they cannot anticipate feasibility when the project is permanently financed. The Financing Adjustment Factor provided for herein will permit project feasibility notwithstanding interest rate changes which may occur in the near future.

Before adopting this change, the Secretary is providing 15 days for submission of public comments. If, as a result of comment, the Secretary determines that a change in the standards described in this Interim Rule is appropriate, their effectiveness will be deferred by publication in the **Federal Register.** Otherwise, unless deferred by such publication, the standards will become effective without notification by the Secretary 20 days after publication of this document. Interested parties are invited to participate in this rulemaking process by submitting relevant comments and suggestions to the Rules Docket Clerk at the address specified above.

A Finding of No Significant Impact has been made in accordance with HUD regulation 24 CFR Part 50, which implements Section 102(2)(c) of the National Environmental Policy Act of 1969. This statement is available for inspection and copying in the Office of the Rules Docket Clerk at the above address. In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the prepublication review of this rule provided for in Section 7(o)(2) of the Department of Housing and Urban Development Act.

The rule is not listed on the Department's published semi-annual agenda of significant regulations.

Accordingly, Schedule A of Part 888 is amended by adding the following Note after the heading as set forth below.

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program)

Note.—Where necessary to reflect the actual costs of permanent financing, as determined by HUD, these Fair Market Rents, as amended, can be multiplied by a Financing Adjustment Factor of 1.15, rounded to the nearest dollar. The revised schedule derived from use of this factor will apply to all projects except those financed under a program that enables them to have permanent financing at a fixed interest rate, e.g., the Section 202, Section 515 or the GNMA Tandum programs.

(This Note will not appear in the Code of Federal Regulations).

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., June 10, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-17964 Filed 6-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7702]

Income Tax; Election of Alternative Amortization Method of Funding Certain Pension Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the procedure for electing an alternative amortization method of funding certain pension plans. These regulations implement section 1013(d) of the Employee Retirement Income Security Act of 1974, and provide necessary guidance to the public for compliance with the Internal Revenue Code of 1954, as amended. The regulations would affect certain multiemployer pension plans which were in existence on January 1, 1974.

DATES: The regulations are effective generally for plan years beginning after 1975, but earlier (or later) in the case of some plans as provided by section 1017 of the Employee Retirement Income Security Act of 1974.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Greenblatt of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3544, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1979, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 412 of the Internal Revenue Code of 1954 were published in the Federal Register (44 FR 67178). The amendments were proposed to conform the regulations to section 1013(d) of the Employee Retirement Income Security Act of 1974 (ERISA) (Pub. L. 93–406, 88 Stat. 923). One comment concerning the proposed regulations was received. No public hearing was requested or held.

Explanation of Provisions

Section 412 of the Internal Revenue Code of 1954, added by section 1013 of ERISA, provides minimum funding requirements with respect to certain pension plans. These requirements include the maintenance of a minimum funding standard account, to which is charged (among other items), in accordance with section 412(b)(2)(B), an amount necessary to amortize in equal annual installments the plan's unfunded past service liability.

With respect to certain multiemployer plans which were in existence on January 1, 1974, section 1013(d) of ERISA allows an election by the plan to fund certain unfunded past service liability on the basis of an equal annual percentage of the aggregate pay of all participants of the plan in lieu of the level dollar charges referred to above. This alternative amortization method applies to the amount of unfunded past service liability which exists as of the date 12 months after the date on which section 412 first applies to the plan.

The regulations prescribed the means by which certain multiemployer plans can elect the alternative amortization method. The multiemployer plans to which this election is available are those plans which (a) on January 1, 1974, had contributions under the plan based on a percentage of pay, (b) have actuarial assumptions with respect to pay which are reasonably related to past and projected experience, and (c) have rates of interest under the plan which are determined on the basis of reasonable actuarial assumptions. The election consists of the attachment of a statement to the annual report required under section 6058(a) for the plan year for which the election is made, stating that the alternative method is being adopted. Advance approval from the Internal Revenue Service is not required. The alternative method must be adopted on or before the deadline for filing the annual report corresponding to the last plan year beginning before January 1, 1982. If the election is made after the first plan year to which section 412 applies, recomputation of the contributions due in the prior years (to which section 412 applied) will be necessary.

Comments on the Proposed Regulations

The one written comment submitted concerned proposed § 1.412–5(d). That provision construes section 1013(d)(2) of ERISA, which establishes minimum charges to the funding standard account for a plan year by a plan making the election. Under the proposed regulations, these minimum charges equal the interest on certain past service liabilities, determined as of the date 12 months after the date on which section 412 first applies to the plan.

The comment recommended that the determination of the minimum charges should also take into account additional liabilities generated by plan amendments after the initial 12-month period, and interest thereon. The Treasury Department does not regard this suggestion as a reasonable construction of the statute, as the election provided by section 1013(d)(1) applies only to the unfunded past service liability existing as of the date 12 months after section 412 first became applicable to the plan.

Accordingly, the proposed regulations are adopted without change.

Drafting Information

The principal author of these regulations is Mr. Russell Greenblatt of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

The proposed amendments to 26 CFR Part 1, as set forth in the notice of proposed rulemaking in the **Federal Register** on November 23, 1979 (44 FR 67178), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805), and section 1013(d)(1) of ERISA (88 Stat. 923).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: May 30, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Proposed Amendments to the Regulations

The Income Tax Regulations (26 CFR Part 1) are amended by adding in the appropriate place the following new section:

§ 1.412(b)–5 Election of the alternative amortization method of funding.

(a) *Alternative amortization method in general.* Section 1013(d) of the Employee Retirement Income Security Act of 1974 provides an alternative method which may be used by certain multiemployer plans (as defined in section 414(f)) which were in existence on January 1, 1974, for funding certain unfunded past service liability. The multiemployer plans which may elect to use this alternative method are those plans (1) under which, on January 1, 1974, contributions were based on a percentage of pay, (2) which use actuarial assumptions with respect to pay that are reasonably related to past and projected experience, and (3) which use rates of interest that are determined

on the basis of reasonable acturial assumptions. The unfunded past service liability to which this method applies is that amount existing as of the date 12 months after the date on which section 412 first applies to the plan. The alternative method allows the plan to fund this liability over a period of 40 plan years by charging the funding standard account with an equal annual percentage of the aggregate pay of all participants in the plan instead of the level dollar charges required under section 412(b)(2)(B). Paragraphs (b), (c), (d) and (e) of this section contain procedural rules for electing this alternative method.

(b) *Election procedure.* To elect the alternative amortization method, a multiemployer plan must attach a statement to the annual report required under section 6058(a) for the plan year for which the election is made, stating that the alternative method for funding unfunded past service liability is being adopted. Advance approval from the Internal Revenue Service is not required. The alternative method must be adopted on or before the last day prescribed for filing the annual report corresponding to the last plan year beginning before January 1, 1982.

(c) *Charges to which the alternative amortization method is applicable.* Once elected, the alternative amortization method is applicable to the unfunded past service liability existing as of the date 12 months after the date on which section 412 first applies to the plan. This results in charges to the funding standard account which are in lieu of—

(1) Charges required under clause (i) of section 412(b)(2)(B), and

(2) Charges required under clause (iii) of section 412(b)(2)(B) if the plan amendments referred to in such clause result in a net increase in the unfunded past service liability existing as of the date 12 months after the date on which section 412 first applies to the plan. Such charges generally will arise only with respect to plan amendments adopted in the first plan year to which section 412 applies.

If the election is made on an annual report corresponding to a plan year after the first plan year to which section 412 applies, recomputation of the contributions due in the prior years (to which section 412 applied) will be necessary.

(d) *Limitation.* The sum of the charges described in this paragraph may not be less than the interest on the unfunded past service liabilities described in section 412(b)(2)(B) (i) and (iii), determined as of the date 12 months after the date on which section 412 first applies to the plan.

(e) *Reporting requirements.* Each annual report required by section 6058(a) and periodic report of the actuary required by section 6059 must include all additional information relevant to the use of the alternative amortization method as may be required by the applicable forms and the instructions for such forms.

[FR Doc. 80-17962 Filed 6-12-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

28 CFR Part 20

Criminal History Records

AGENCY: Department of Justice (DOJ)/ Office of Justice Assistance, Research, and Statistics (OJARS), Law Enforcement Assistance Administration (LEAA), National Institute of Justice (NIJ), and Bureau of Justice Statistics (BJS).

ACTION: Final Rule.

SUMMARY: OJARS is amending Part A & B of the regulations governing criminal history records collected, maintained or disseminated through funding under the Omnibus Crime Control and Safe Streets Act as amended.

EFFECTIVE DATE: July 15, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas J. Madden, General Counsel, Office of Justice Assistance, Research, and Statistics (202) 724-7792.

SUPPLEMENTARY INFORMATION: The Law Enforcement Assistance Administration (LEAA) was reorganized by the Justice System Improvement Act of 1979 (JSIA) Pub. L. 96-157, on December 27, 1979. The Office of Justice Assistance, Research, and Statistics was given the responsibility to assure the privacy and security of criminal history records. Therefore, a technical amendment is necessary to conform the regulations with the new statutory language. In addition, in order to clearly indicate that the State and Federal Inspectors General Offices are covered by the definition of criminal justice agency § 20.3 has been changed. The purpose of the Offices of Inspector General is to investigate fraud, waste and abuse in government programs and activities. These offices perform criminal justice functions. Accordingly, 28 CFR Part 20 is amended as follows:

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

1. Wherever "LEAA" appears, "OJARS" should be substituted.

§ 20.3 [Amended]

2. § 20.3(c) is amended by adding at the end thereof: "State and Federal Inspector General Offices are included."

Henry S. Dogin,

Director, Office of Justice Assistance, Research, and Statistics.

[FR Doc. 80-17812 Filed 6-12-80; 8:45 am]

BILLING CODE 4410-18-M

POSTAL SERVICE

39 CFR Parts 10 and 111

Incorporated Documents; Publishing of Amendments to Postal Service Publication 42 and the Domestic Mail Manual

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to discontinue the unnecessary present practice of publishing in full text amendments made by transmittal letters to subscribers to Postal Service Publication 42 and the Domestic Mail Manual, which are incorporated by reference in the **Federal Register.** 39 CFR 10.1, 111.1. Since incorporated documents, by definition, are "deemed published in the **Federal Register**" under 5 U.S.C. 552(a) while not actually printed there, and do not appear in the Code of Federal Regulations, it is anomalous to publish in the **Federal Register** the text of amendments to such documents.

This change will not affect rulemakings in which the Postal Service seeks public comment on proposed changes in the Domestic Mail Manual or Publication 42. Final rules will continue to be published in such cases.

After the Postal Service issues new pages to subscribers incorporating changes to Publication 42 or the Domestic Mail Manual, which are looseleaf publications, a notice of those changes will be published in the **Federal Register.** At the same time the text of the changes will, as in the past, continue to be filed with the Director of the Federal Register.

This change in the handling of amendments to Publication 42 and the Domestic Mail Manual is consistent with the way amendments to the Postal Contracting Manual have been handled since its incorporation in the **Federal Register** in 1971. 39 CFR 601.100.

EFFECTIVE DATE: June 12, 1980.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: To carry out the purposes described above, a new paragraph (a) is added to §§ 10.3 and 111.3 of title 39, Code of Federal Regulations, referring to the publication of notices of changes, rather than the changes. An exception is made for regulations published in the **Federal Register** through the process of informal notice and comment rulemaking. Additional notice would not be given of interim or final regulations adopted through that process, since they would already have received a full discussion and publication in the public rulemaking proceeding.

A new paragraph (b) is added to each section to spell out the existing Postal Service practice of publishing proposed interim and final regulations in the **Federal Register** when the Service invites comments from the public on proposed changes to the Domestic Mail Manual or Publication 42.

New paragraph (c) is added to each section to refer to the fact that, with some exceptions, changes to these manuals are published in the Postal Bulletin, a weekly postal publication that may be purchased from the Government Printing Office.

A new paragraph (d) is added to § 111.3 to note that interim regulations will be published in full text or referenced, as appropriate, in the Domestic Mail Manual.

A new paragraph (d) is added to § 10.3 and a new paragraph (e) is added to § 111.3, stating that references to amendments of Publication 42 and the Domestic Mail Manual adopted through notice and comment rulemaking subsequent to issuance of the most recent transmittal letter would be found in the List of CFR Sections Affected at the end of the current CFR volume.

Accordingly, title 39, Code of Federal Regulations is amended as follows:

PART 10—INTERNATIONAL POSTAL SERVICE

1. Amend § 10.3 to read as follows:

§ 10.3 Amendments to Postal Service Publication 42, International Mail.

(a) Except for final regulations published as provided in paragraph (b) of this section, notices of changes made in Postal Service Publication 42 will periodically be published in the **Federal Register**. The text of all published changes will be filed with the Director, Office of the Federal Register. Subscribers to Publication 42 will automatically receive amendments from the Government Printing Office.

(b) When the Postal Service invites comment from the general public on a proposed change to Publication 42, the proposed change and, if adopted, the final regulation will be published in the **Federal Register.**

(c) Final regulations published as provided in paragraph (b) of this section, and other changes to Publication 42 adopted subsequent to the notices published under paragraph (a) of this section (except for corrections of minor errors or other nonsubstantive changes), are published in the Postal Bulletin, a weekly postal publication that may be purchased from the Superintendent of Documents, Washington, D.C. 20402.

(d) For references to amendments to Publication 42 adopted under paragraph (b) of this section subsequent to issuance of the most recent transmittal letter listed below, see § 10.3 in the List of CFR Sections Affected at the end of this volume.

Amendments to Postal Service Publication 42

Transmittal Letter	Dated	Fed. Reg. Publication
84	Nov. 3, 1976	41 FR 54867
85	Oct. 16, 1978	43 FR 18392

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

2. Amend § 111.3 to read as follows:

§ 111.3 Amendments to the Domestic Mail Manual

(a) Except for interim or final regulations published as provided in paragraph (b) of this section, notices of changes made in the Domestic Mail Manual will periodically be published in the **Federal Register.** The text of all published changes will be filed with the Director, Office of the Federal Register. Subscribers to the Domestic Mail Manual will automatically receive the amendments from the Government Printing Office.

(b) When the Postal Service invites comments from the general public on a proposed change to the Domestic Mail Manual, the proposed change and, if adopted, the interim or final regulation will be published in the **Federal Register.**

(c) Interim or final regulations published as provided in paragraph (b) of this section, and other changes to the Domestic Mail Manual adopted subsequent to the notices published under paragraph (a) of this section (except for corrections of minor errors or other nonsubstantive changes), are published in the Postal Bulletin, a weekly postal publication that may be purchased from the Superintendent of Documents, Washington, D.C. 20402.

(d) Interim regulations will be published in full text or referenced, as appropriate, in the Domestic Mail Manual at the place where they would appear if they become final regulations.

(e) For references to amendments to the Domestic Mail Manual adopted under paragraph (b) of this section subsequent to issuance of the most recent transmittal letter listed below, see § 111.3 in the List of CFR Sections Affected at the end of this volume.

(5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001–3011, 3201–3218, 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80–17720 Filed 6–12–80; 8:45 am]

BILLING CODE 7710–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5727

[N–054565, N–6453]

Nevada; Withdrawal and Reservation of Lands: Extending the Eastern Boundary of the Toiyabe National Forest

Correction

In FR Doc. 80–16737 appearing at page 37439 in the issue for Tuesday, June 3, 1980, in the second column, the fourth line under "**Mount Diablo Meridian**" reads "Sec. 22, NW¼, N½SW½, SE½ (fractional);" should be corrected to read "Sec. 22, NW¼, N½SW¼, SE¼ (fractional);".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

Second Computer Inquiry; Paging Limitation Provision Waived

AGENCY: Federal Communications Commission.

ACTION: Waiver of page limitation in Docket 20828 (Second Computer Inquiry).

SUMMARY: In response to petitions filed by various parties 47 CFR 1.429(d) which provides that a petition for reconsideration shall not exceed 25 double-spaced typewritten pages is waived in Docket 20828 for all parties filing such petitions.

DATES: Non-Applicable.

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

FOR FURTHER INFORMATION CONTACT: H. Russell Frisby Jr. Common Carrier Bureau (202) 632–9342.

In the Matter of Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Docket No. 20828. See 45 FR 31319, May 13, 1980.

Order

Adopted: May 30, 1980.

Released: June 2, 1980.

1. The American Telephone and Telegraph Company ("AT&T") and the GTE Telenet Communications Corporation ("Telenet") have filed requests with this Commission seeking waivers of the page limitation provision of § 1.429(d) of the Commission's Rules for petitions for reconsideration in this proceeding. Generally the parties state that the *Final Decision* in this proceeding is a detailed and complex document dealing with a multiplicity of significant issues and that they will be unable to adequately address these issues within the 25 page limitation.

2. Because of the complexity of the issues raised in this proceeding and their overall importance, a waiver of the 25 page limitation provision of § 1.429(d) of the Rules seems reasonable and in the public interest. Furthermore, it is apparent in the interest of fairness that the limitation should be waived not just for AT&T and Telenet, but for all parties.

3. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's Rules on delegation of authority, That the page limitation provision of § 1.429(d) of the Commission's Rules is waived for all parties filing petitions for reconsideration in this proceeding.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-17881 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 79-285; RM-3207; RM-3313; FCC 80-286]

Amateur Radio Service; Deleting Restriction Which Limits The Allowable Bandwidth of Frequency Modulated (FM) Voice Emissions in the 50–54 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: In the Amateur Radio Service, the Commission is deleting the restriction which limits the allowable bandwidth of frequency modulated (FM) voice emissions in the 50–54 MHz band. The restriction is technologically obsolete. The effect of this action is to allow the use of conventional land-mobile FM voice emission between 50.1 MHz and 52.5 MHz.

EFFECTIVE DATE: July 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice DePont or Jay Jackson, Private Radio Bureau (202) 254–6884.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 97.65(c) of the Commission's rules and regulations governing the Amateur Radio Service, PR Docket 79–285, RM–3207, RM–3313. See also 44 FR 64442, November 7, 1980.

Report and Order

Adopted: May 29, 1980.

Released: June 10, 1980.

1. Our Notice of Proposed Rule Making in this proceeding was released on October 31, 1979, and published in the **Federal Register** on November 7, 1979 (44 FR 64442). In the Notice, we proposed to amend § 97.65(c) so that the frequency modulated (FM) voice emission bandwidth limitation contained therein would no longer apply to the 6 meter amateur band (50–54 MHz). We further proposed to delete the phrase "* * * and the purity and stability of emissions shall comply with the requirements of § 97.73." since it is redundant.

2. Section 97.65(c) currently limits the maximum allowable bandwidth of an FM voice emission, transmitted between 50.1 and 52.5 MHz, to that of an amplitude modulated (AM) voice emission having the same audio characteristics. At the present time, most amateur rario operators who use FM use the FM emission which is standard in the commercial land-mobile radio services. Because this emission has a wider bandwidth than an AM voice emission having the same audio characteristics, it may not currently, under the rules, be transmitted between 50.1 and 52.5 MHz. Removing the restriction, as proposed, would allow the use of this conventional land-mobile FM voice emission between 50.1 and 52.5 MHz.

3. We received forty-nine comments and reply comments in this proceeding. Fourteen staunchly supported the proposal and urged that it be adopted as presented. Eleven favored the proposal, but had reservations about it which found expression in counterproposals of various sorts. These counterproposals generally offered alternative frequency segments where conventional land-mobile FM voice emissions should not be permitted. The remaining twenty-four flatly disagreed with the proposal and requested that the rule remain unchanged.

4. The issue in this proceeding is whether or not a technologically obsolete restriction should be retained in a portion of the 6 meter band. However, the comments focused on the question of whether or not conventional land-mobile FM voice emissions can co-exist with single sideband voice emissions. Opponents of the proposal were concerned that FM users would take over the entire 6 meter band and preclude its use by single sideband users. Proponents of the proposal, on the other hand, believed that amateur radio operators could and would successfully resolve any problems by voluntarily developing sharing arrangements and band-plans which would accommodate most, if not all, of the various operating interests.

5. We agree with the proponents of the proposal. We expect that the experience which amateur radio operators have gained through developing successful sharing arrangements in the 144 MHz, 220 MHz, and 420 MHz bands will be brought into play, and that frequencies in the 6 meter band will continue to be used in a manner that is satisfactory to all concerned. We believe that the inherent flexibility in this approach outweighs any difficulty which amateur radio operators might have in reaching sharing agreements. Therefore, we are removing the FM voice emission bandwidth restriction from the 6 meter band.

6. We are also deleting the phrase in § 97.65(c) which refers to § 97.73. That latter section, which deals with the purity and stability of emissions, applies to all amateur radio transmitters, regardless of the type of emission used. Thus, the reference to it in § 97.65(c) is unnecessary.

7. Accordingly, it is ordered, that, effective July 14, 1980, Part 97 of the Commission's rules is amended as shown in the Appendix attached below. Authority for this action is found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. It is further ordered, that this proceeding is terminated and the docket is closed.

8. For further information on this rule change, contact Maurice DePont or Jay Jackson, (202) 254–6884.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

In § 97.65, paragraph (c) is amended to read:

§ 97.65 Emission limitations.

* * * * *

(c) On frequencies below 29.0 MHz, the bandwidth of an F3 emission (frequency or phase modulation) shall not exceed that of an A3 emission having the same audio characteristics.

* * * * *

[FR Doc. 80-17933 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[Docket No. 21135; FCC 80-285]

Simplification of the Licensing and Call Sign Assignment Systems for Stations in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Third Report and Order.

SUMMARY: In the Amateur Radio Service, the Commission is authorizing modification and renewal only of existing club and military recreation station licenses. Likewise, in the Radio Amateur Civil Emergency Service (RACES), only modification and renewal of station licenses will be permitted. New station licenses for these types of stations will not be granted.

EFFECTIVE DATE: July 14, 1980.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Rules Division, (202) 254-6884.

SUPPLEMENTARY INFORMATION: In the matter of the simplification of the licensing and call sign assignment systems for stations in the Amateur Radio Service, Docket No. 21135, see also 43 FR 15325, March 13, 1979.

Third Report and Order

Adopted: May 29, 1980.

Released: June 10, 1980.

1. Our Notice of Proposed Rule Making in this proceeding was released on March 11, 1977, (42 FR 15438). In it, we proposed to simplify the amateur licensing structure by discontinuing the issuance of all station licenses other than primary and space station, i.e., we would no longer issue secondary, special event, club, military recreation, RACES, repeater, auxiliary or control station licenses. Our goal was to simplify our application processing system in order to provide an efficient licensing service to the public, within our manpower and resource allocations.

2. The comments received in response to the Notice showed how deeply concerned amateur licensees were about our proposal to eliminate club, military recreation and RACES station licenses. Accordingly, the Commission issued a Further Notice of Proposed Rule Making on February 23, 1978, (43 FR 7332), proposing to license these stations in a way that would conserve staff resources. The Further Notice proposed that distinctive call signs be assigned these stations. The prefixes WK, WM, and WC would be assigned to club, military recreation, and RACES stations, respectively. In addition, expiration dates for these types of stations were to be staggered in order to reduce the Commission's workload. Eligibility for club station licenses was to be revised to require new and existing licensees to demonstrate a compelling need for such licenses. No trustee was to be required for a club station. Comments to the Further Notice were due on or before June 2, 1978, with reply comments due on or before June 30, 1978.

3. Approximately 150 comments and reply comments were received in response to the Further Notice. Most of the comments dealt with the proposal to assign a WK prefix to club stations. The opponents felt that presently licensed club stations should be allowed to retain and renew their licenses, keeping their present call signs. They did not want a distinctive club prefix that would identify club stations as a class. It was felt that the present club call sign fostered a sense of identity among club members and created good will in the community for the club. The present club licensees who commented also believed that a club should not have to show a compelling need in order to obtain a license. The proposal to eliminate club trustees likewise met with a negative response, since present licensees felt it was desirable to have someone in charge who would be responsible for the proper operation of the station.

4. The comments showed how much amateur operators want to have a familiar club call sign when they participate in field day activities and when they operate their stations to assist in times of emergencies. The Enid Amateur Radio Club, Inc., Enid, Oklahoma, brought out the economic hardship for clubs, if they were assigned new call signs: "There is much sentimentality attached to this call sign. All our records, our stationery, our publicity signs, QSL cards, equipment, our clubroom—these all are emblazoned with our call sign. Every magazine in the club library has been stamped with (the club call sign) for identification of ownership."

5. With respect to military recreation and RACES stations, the comments filed by the Department of Defense (DOD) supported the continued issuance of a separate RACES license with a distincitive call sign to each civil defense organization. DOD also wanted separate licenses for military recreation stations, with a call sign that would preserve the historical identity of the station, arguing that such stations are unique and contribute to the morale and welfare of military personnel.

6. We have reviewed carefully all the comments filed in response to the Further Notice in this proceeding. We appreciate the investment, both emotional and financial, that amateur operators have in their call signs. Therefore, we believe that the public interest will be served by accommodating present licensees of club, military recreation, and RACES stations by granting modification and renewal of existing licenses. In this connection, a change in the trustee of a club, person in charge of the military recreation station, or responsible civil defense official will be treated as a modification to the existing station license. In addition, a change in the station location or a change in the name of an existing station will be construed as a license modification. No new call signs would be assigned.

7. We would anticipate that the desire for a new license would arise most often in connection with club stations. We would expect that the members of a club would select a licensed amateur radio operator as trustee for the station and then use the trustee's primary station call sign as the club's call sign. Moreover, there would be no objection, after the station had identified with the primary station call sign, to the control operator's adding-on the club's name as further identification. We believe that there is merit in limiting the proliferation of call signs and that it comports with our efforts to deregulate the Amateur Radio Service. Further, the tradition for self-regulation by Amateur radio licensees assures us that full responsibility for a station's operation will be borne by the primary station licensee.

8. Accordingly, it is ordered, that, effective July 14, 1980, Part 97 of the Commission's rules is amended as shown in the Appendix attached below. Authority for this action is found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. The disposition of the question concerning the licensing of club, military recreation, and RACES stations is the sole remaining issue in this docket. Inasmuch as our action herein resolves the matter, this proceeding is hereby terminated and the docket is closed.

9. For further information on these rule changes contact Maurice J. DePont, (202) 254–6884.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. The present text of § 97.37 is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 97.37 General eligibility for station license.

(a) An amateur radio station license will be issued only to a licened amateur radio operator, except that a military recreation station license may also be issued to an individual not licensed as an amateur radio operator (other than a representative of a foreign government), who is in charge of a proposed military recreation station not operated by the U.S. Government but which is to be located in approved public quarters.

(b) Only modification and/or renewal station licenses will be issued for club and military recreation stations. No new licenses will be issued for these types of stations.

2. The present text of § 97.171 is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 97.171 Eligibility for RACES station license.

(a) A RACES station will only be licensed to a local, regional, or state civil defense organization.

(b) Only modification and/or renewal station licenses will be issued for RACES stations. No new licenses will be issued for RACES stations.

[FR Doc. 80-17931 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna; Final Regulations

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

ACTION: Final regulations.

SUMMARY: These regulations amend the present Atlantic bluefin tuna regulations by: (1) Reserving the purse seine quota of school-size tuna for assessment fishing (fishing in which a biological technician is on board to collect information for scientific purposes); (2) establishing an allocation system for the purse seine quota both for school-size and giant-size tuna between historical and new entrants who must apply to fish for these quotas; (3) requiring bluefin tuna dealers, instead of vessel owners or operators, to insert the metal identification tag in giant-size tuna, fill out the catch form, and mail this form to the NMFS; (4) eliminating logbooks and greatly reducing reporting requirements of vessel owners or operators using gear other than purse seines; (5) allowing for multiple daily catches of giant-size tuna, at certain times during the season in the northern area, by vessels other than purse seine vessels; (6) establishing a sub-quota of 150 short tons (approximately 400 giant tuna) in the northern area of the handgear fishery for which harpoon vessel owners could apply; (7) continuing the present regulations concerning the transfer of tuna at sea, i.e., the use of buy boats in the fishery, for an additional year on a provisional basis in order to establish a more complete administrative record; (8) retaining the opening date for the purse seine fishery for giant tuna at August 15; and (9) increasing the maximum size of school tuna and the minimum size of giant tuna slightly, and using a length measurement rather than a weight measurement to define the various size groups of Atlantic bluefin tuna.

EFFECTIVE DATE: These regulations are effective June 13, 1980.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, telephone: (617) 281–3600.

SUPPLEMENTARY INFORMATION: On March 21, 1969, the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887; TIAS 6767) entered into force for the United States. The United States, as a party to that Convention, implemented its obligations by enacting the Atlantic Tunas Convention Act of 1975 (16 U.S.C. Sections 971–971h).

This Act directs the Secretary of Commerce to promulgate regulations which implement recommendations adopted by the Commission (ICCAT) established under the provisions of the Convention and to carry out the purposes and objectives of the Convention. Those recommendations implemented by the regulations are basically, as follows:

(1) To prohibit any taking and landing of bluefin tuna weighing less than 6.4 kg (14 pounds) except for a 15 percent incidental catch allowance; and

(2) To limit fishing mortality to recent levels.

In view of the varying mortality rates for different classes of Atlantic bluefin tuna, the United States regulations were written in a manner which reflects the relationship of recent fishing mortality levels to a particular size tuna. The Secretary, through the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA) has continually monitored the stock levels of bluefin tuna in order to meet the obligations of the United States to implement the recommendations of the Commission. Both the Convention and the Act are directed towards "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch of food and other purposes" (Preamble to the Convention). Since the bluefin tuna fishery is utilized by tens of thousands of domestic fishermen, both recreational and commercial, and results in a source of protein for United States and foreign markets, the Secretary has attempted to ensure the broadest possible access to the fishery while preventing serious economic dislocations as a result of any management scheme so imposed.

On June 20, 1979, NOAA published final regulations governing fishing for Atlantic bluefin tuna (44 FR 36043). Those regulations represented a change in the previously effective regulations. The regulations: (1) decreased the purse seine quota of school tuna from 1,000 short tons (st) to 650 st; (2) increased the purse seine quota for giant bluefin tuna from 180 st to 300 st; (3) changed the quota unit of measure for giant bluefin tuna from numbers of fish to tons and increased the giant quota for the handgear fishery from 2,250 fish to 1,218 st (approximately 3,370 fish); (4) established a category for which charter boat operators in the handgear fishery in

the northern area could apply; (5) divided the handgear quota of giants for the northern area (1,128 st) between a charter boat and a general category based upon historical participation in the fishery, i.e., 102 st (approximately 280 fish) for the charter boat category and 1,026 st (approximately 2,800 fish) for the general category; (6) prescribed different catch rates for the handgear fishery in the northern and southern areas, i.e., one fish per day per vessel (northern area) and five fish per week per vessel (southern area); (7) required all dealers in Atlantic bluefin tuna to obtain licenses; and (8) allowed anglers to take more than one young school tuna as part of their daily catch limit.

On March 14, 1980, NOAA published proposed rules governing fishing for Atlantic bluefin tuna (45 FR 16506) which form the basis for these final regulations. Public hearings on the proposed regulations were held at nine locations in Maine, Massachusetts, Rhode Island, New Jersey, Virginia, Texas, Alabama and Florida. Written comments on the regulations were received through May 13, 1980.

In considering all of the testimony and comments, NMFS was guided by several objectives. The regulations should: (1) Comply with the conservation recommendations adopted under ICCAT; (2) provide for the best possible data base with which to manage the fishery; (3) allow all interested persons a fair opportunity to engage in the fishery; (4) reduce unnecessary reporting; and (5) be enforceable.

The following paragraphs discuss the major changes and briefly describe the actions taken by the NMFS. A detailed description of changes and estimated impacts is found in the Regulatory Analysis and Environmental Impact Statement which are available from the Regional Director, Northeast Region, NMFS, 14 Elm Street, Gloucester, Mass. 01930.

Purse Seine Assessment Fishing

The public comment reflects a general consensus that the NMFS's proposal to conduct the purse seine fishery on School-size tuna as an assessment fishery is a good way to proceed to obtain needed information. Most of the purse seine interests expressed no general dissatisfaction with the proposal, although some concerns were expressed over the details of the proposed tagging program for 1980 (which are not specifically a part of this rulemaking). The specific details of tagging are currently being addressed by purse-seine interests and NMFS scientific personnel in charge of the scientific program.

The practical effect of this proposal is to require that biological technicians be carried on board the purse seine vessels while they are fishing for school-size tuna; these technicians would collect information on the tagged tuna being caught, which would eliminate much of the current reporting burden on the vessel operators. Two commentators felt that assessment fishing would be an infringement of their constitutionally guaranteed rights. NMFS continues to believe, however, that the given conservation needs of the fishery and the revised treatment of fishing data, these regulations are reasonable and necessary regulatory measures to ensure collection of needed scientific tagging information for use, nationally and internationally, in managing the stocks.

Other commentators suggested making tagging an option for other segments of the fishery as well. The regulations currently allow fishermen using other types of gear to tag and release bluefin tuna after the season is closed. The types of programmed assessment fishing activity which would be useful depend on the current needs of the scientific analyses. Further, formalized assessment programs should be under the control of the NMFS scientific program for Atlantic bluefin tuna snd not dictated in these regulations.

The assessment fishing proposal as adopted has not been changed from the proposed regulations.

Purse Seine Vessel Allocation

NMFS proposed that purse seine vessels be granted specific allocations of school-size and giant-size tuna based upon historical participation, with a portion of the quota being reserved for new entrants, i.e., non-historical participants. Most of the commentators, even many of the purse-seine interests, were generally favorable to an allocation system. Many of the commentators, however, criticized or suggested revisions in some of the details of the program. The concept behind the proposal was that an allocation system was a necessary management tool for conservation purposes, because of the relatively large carrying capacities and efficiencies of present-day purse seine vessels. However, out of fairness to historical participants who have made significant investments in this fishery, the system was weighted in their favor at the outset.

Some of the commentators favored easier access for new entrants, while another commentator favored basing a vessel allocation system on a five rather than a three-year period. Considering these comments and judging the overall equity of the allocation, NMFS continues to believe that the system as proposed basically gives fair recognition to the past efforts of historical participants. However, some commentators complained that the suggested allocation system should not continue unchanged for the next 4 years. Although no commitment can be made at this time, NMFS believes that at the end of three years of this allocation system the historical participants will have been given appropriate recognition and that more equal division of the quota would be appropriate at that time.

Other commentators stated that allowing the historical participants unlimited freedom in deciding how to harvest their respective allocations gives them an unfair recognition and could lead to collusion among one or more owners to gain an unfair advantage over the other vessels. Although the proposed regulations would have allowed purse seine owners to share their allocations among their vessels, the underlying purpose of that part of the proposal was to insure that owners could keep their allocations if they bought a new vessel or, because of damage, loss, or other circumstances, would have to bring another vessel into the fishery. It was intended that a vessel engaged in the fishery could be replaced, but that its allocation would remain the same, regardless of the new vessel's size or carrying capacity. The vessel being replaced under these circumstances would be required to leave the fishery unless the vessel was being sold to another participant in the fishery. Also, it was not the intent of the vessel allocation system to allow an owner to combine the historical catches of his several vessels, take the combined catch with one vessel and allow the unused vessels to register as new entiries.

In balancing all of these factors, the NMFS agrees that purse seine vessel owners should be somewhat restricted in how they determine to catch their allocation to prevent a serious imbalance within the purse seine fishery. Consequently, this regulation allows purse seine vessel owners to catch their allocation with a vessel other than the one used in establishing the entitlement (a replacement vessel) but not with one of the other vessels sharing in the historical allocation. Further, since the purpose of the system is to give recognition to the historical participants, it would be clearly inappropriate for a historical participant to enter a vessel in the new entrant

category; and thus this has been prohibited.

There were several other general comments concerning the purse seine fishery. One commentator stated that NMFS was trying to drive the purse seine fishery out of business and trying to deprive United States canners of a raw product in favor of sending this product to a Japanese market. This statement is not true. For conservation reasons, there has been a concerted effort at this time to shift purse seine fishing effort away from school tuna and toward giant tuna. It is true that giant tuna are mostly shipped to Japan. However, the domestic market for those fish is expanding fairly rapidly and increasingly more of the giant tuna are being consumed domestically. This trend is developing in the fresh tuna market with no influence from the Government. In addition, more and more of the school-size tuna are being sent to the domestic fresh-fish market as well. Further, during the last several years, less than one quarter of the school tuna catch have been processed by U.S. canners; most of it has gone to a Canadian cannery.

Several commentators objected to reducing the purse seine school-tuna quota from 1,000 tons to 650 tons. The proposed regulation made no mention of a quota reduction for the purse seine fishery. However, a quota reduction was made last year. Several of the commentators suggested that the government does not have sufficient statutory authority for some of the proposals. However, NMFS believes that these proposals are within its authority under the Atlantic Tunas Convention Act (16 U.S.C. Sec. 971–971h) to implement recommendations of the ICCAT and to carry out the purpose and objectives of the Convention and the Act.

Therefore, the purse seine vessel allocation scheme is adopted in these final regulations as proposed, with the modification that a historical participant must use the vessel now being used or replace it; and that no one vessel may be used to catch more than one allocation.

Reporting and Metal Identification Tags

Many comments, both written and oral, were received supporting the concept of reducing reporting requirements by the fishermen and of assigning to dealers additional reporting requirements, as well as the responsibility for inserting the metal identification tag in the tail section of the fish. Other commentators objected to this type of system. Their primary objection was that they envisioned difficulty in the enforcement of daily catch limits if dealers and fishermen conspired to evade the regulations. NMFS feels that it can provide adequate enforcement and intends to conduct a well-coordinated enforcement program. Any violation of this regulation will be considered a serious offense and prosecuted to the full extent of the law.

Other commentators expressed concern over the expanded role dealers will have to assume and at possible logistical problems that may take place in remote areas when fishermen might leave their fish unattended for dealers to pick up at a later time by truck. Further, they stated that this situation could pose some difficulty in having the dealer's report form countersigned by the fisherman. NMFS feels that since extensive reporting is already required of dealers, only a small amount of additional effort will be expended by them. Several dealers commented that they support the suggested plan and envision little additional effort on their behalf. In the case of the logistical problem in getting dealer forms countersigned, the NMFS feels that with the high economic value attendant to these fish there is little likelihood that the catch would be abandoned at the dock by fishermen relying on the dealer alone to report and weigh the fish accurately and issue payment. The NMFS believes the occasional case where a logistical problem might arise is far outweighed by the benefits of this system.

Therefore, these regulations adopt a system of eliminating handgear logbooks and drastically reducing reporting requirements imposed on vessel operators and requiring dealers, instead of vessel operators, to insert the metal identification tag in giant-size tuna and report them to the NMFS.

Variable Catch Rate

Most commentators supported the concept of a variable catch rate for handgear fishermen in the giant tuna fishery in the northern area. Some offered variations whereby a certain percentage of the quota would be reserved for each month during the summer and fall. However, if these variations were to be used, it is very possible that the fishery could close during the most active summer months when tuna tournaments and summer vacations are scheduled.

Other commentators supported another variation whereby a one fish per day catch would be allowed until August 17, two per day until September 1, and then three per day until the quotas were filled. NMFS believes that any unqualified, arbitrary increase in the catch rate might cause an early closure of the fishery, possibly before Labor Day. NMFS does not believe that such an action would provide everyone a fair opportunity to engage in the fishery.

Several commentators questioned how NMFS would announce any changes in the catch rate. NMFS plans to announce any changes in the catch rate through the market news code-a-phone (617/283–1101) and press releases, copies of which will be distributed to licensed Atlantic bluefin tuna dealers. Further, a notice will be published in the **Federal Register** of any determinations made to change the catch rate for handgear fishermen in handgear fishing of the northern area.

Harpoon Quota

A large number of the commentators supported the concept of a harpoon quota. Most stated that it serves a traditional fishery in a fair and equitable manner. They agreed that unless such a system is initiated, many of the harpoon fishermen that depend upon bluefin tuna for a substantial part of their livelihood, especially those fishing off northern Massachusetts and along the Maine coast, would not find it economically feasible to continue fishing for bluefin tuna. Others favored the formation of a harpoon category but stated that the quota should be greater than the 150 tons that was proposed. Some commentators stated it should be as much as twice the 150-ton amount. One commentator wanted a yearly increase in the harpoon quota to accommodate fishermen that in the future may want to become full-time harpon fishermen.

NMFS feels that the 150-ton quota which represents recent harvest levels, is a fair amount for a harpoon quota. While the harpoon catch has accounted for nearly 24 percent of the annual catch of handgear caught fish in the northern area of the fishery, this figure includes a broader range of vessels than the smaller number which have historically used only harpoons to catch giant tuna.

A few commentators opposed the establishment of a harpoon quota without stating any reason for their opposition. Several others stated that while they were not against harpoon fishermen, they believed that establishing a separate quota for them would tend to separate groups of fishermen and might lead to competition among the various groups of fishermen.

One of the objectives that the NMFS used in developing regulations for the Atlantic bluefin tuna fishery is that of allowing all interested persons a fair opportunity to engage in the fishery. During the past several years, the

traditional harpoon fisherman has been seriously disadvantaged by the daily catch limits. The creation of a separate harpoon quota with its unrestricted daily catch rate should help in reducing this problem. Also, the creation of a separate charter boat category last year with its own monthly quotas has worked very well for these fishermen.

Buy Boats

A large number of comments were received on both sides of the issue whether buy boats create substantial enforcement problems in the bluefin tuna fishery. A number of commentators stated that they favor the use of buy boats because they find it convenient to sell and transfer their tuna at sea. Also, when they are fishing there are times when they may want to buy bait and tackle from buy boats. Some claimed this service saves fuel for the fishing fleet as a whole. Several commentators believed that buy boats provided a service to small vessels, which without this service would find it impossible to transport a giant tuna from the fishing grounds to the dock. A number of commentators stated that each fishing vessel should be large enough and seaworthy enough to bring in its own catch. They contended that if a vessel cannot meet these standards, it should not be out at sea. Others stated that the use of buy boats caused a larger consumption of fuel than would be the case for the fishing fleet as a whole, for these boats may cruise around all day long without buying a single tuna from the fishing boats of the fleet.

The great majority of the comments received pertaining to buy boats dealt with the issue of enforceability. Since the value of a single giant tuna can be as much as $2,000 in unprocessed form, there is a great economic advantage to any fisherman who is able to violate the regulations and catch more than is allowed. Since the transfer of tuna at sea is more difficult to monitor than on land, by its very nature it provides a variety of ways to gain an advantage in bringing in a giant at the expense of all the other fishermen. A few commentators spoke of violations involving a buy boat that they observed operating the past season. While a number of commentators were flatly opposed to the concept of buy boats, others would favor their continued existence if they could be assured that their use would be properly enforced and that no individual or small group of individuals would have an unfair advantage in the fishery through the illegal use of buy boats.

As stated above, few commentators cited instances where they observed violations of the regulation involving buy boats. While the concern expressed by NMFS in the use of buy boats is one of enforceability of the regulations, the administrative record still is currently incomplete. Therefore, NMFS will continue the current regulations concerning buy boats for one more season on a provisional basis. It will, however, concentrate its enforcement capabilities in dealing with buy boats, including the onboard observer coverage in order to gain sufficient information for a proper evaluation. In addition, any violations will be prosecuted to the full extent of the law.

Opening Date for Purse Seine Giant Tuna

Various commentators voiced disapproval at changing the commencement date of the purse seine fishery for giant tuna from August 15 to September 1. Most stated that the August 15 date worked well last year for purse seine vessels and that the captains of these vessels made a diligent effort to stay clear of smaller handgear vessels in order to avoid gear conflicts with them. Two commentators stated that they will, in all likelihood, operate their purse seine vessels for giant-size tuna in areas seldom used by handgear fishermen and that the possibility of gear conflicts would be remote. Also, they stated that the few weeks in August were crucial to their fishery operations. One commentator stated he favors allowing the purse seine fishery for giants to begin whenever these tuna arrived inshore. Several commentators who operate purse seine vessels stated that the ideal weather conditions during the latter part of August the past year was one of the major reasons that they were able to take their quota in just a short time. The few weeks that the season is open during August makes a great difference to them in assuring that they will be able to catch their quota. Also, these commentators said that since NMFS was putting more emphasis on the capture of giant tuna over school tuna, the season for capturing giant tuna should be extended rather than shortened.

On the basis of these statements, NMFS will continue with an opening date of August 15 for purse seine fishery for giant-size bluefin tuna.

Modification of Size Categories

Several commentators voiced their opposition to part of the provision redefining the various size categories of bluefin tuna. While they supported that part which increased the maximum size of school-size tuna from 115 pounds in weight to 57 inches in length or 135 pounds and which increased the minimum weight of giant-size tuna from 300 pounds to 77 inches or 310 pounds, they objected to that part which raised the minimum size of school tuna from 14 pounds (6.4 kg) to 28 inches in length or 19 pounds in weight. Several representatives of the purse seine fishery stated that increasing the minimum size of school tuna would serve no useful conservation purpose. They predicted problems in the future for, if by accident, they should catch tuna weighing between 14 and 19 pounds, they may very well be in violation of the regulations. While it is not a serious problem for them at this time because the entire fleet caught only 200 of this size tuna in an entire season, they argued that since the seine season was being pushed back further into the summer season, a good chance exists that fast-growing one-year-old fish weighing between 14 and 19 pounds could be found schooling with larger size school tuna. If the seine net is set for these larger size school tuna and an unusually large number of 14 to 19 pound tuna show up in the net, the captain may very likely be forced to dump them at sea to stay within the law.

NMFS feels that in view of the most recent biological data that a conservation need would be served by increasing the maximum size of school-size tuna (those as old as 5 years) to 57 inches (145 cm) in length and 135 pounds in weight and of increasing the minimum size of giant tuna (those 10 years old or more) to 77 inches (196 cm) in length and 310 pounds in weight. NMFS feels that the matter of increasing the minimum size of school tuna from 14 pounds to 28 inches in length or 19 pounds needs additional consideration at this time and that this issue would best be addressed at the United States ICCAT advisory meeting this fall. Thus, at least for the time being, the minimum size for school tuna will remain at 14 pounds but be converted to its equivalent length of 26 inches.

No comments, either oral or written, were made concerning the issue of using a length measurement in defining the various size categories of bluefin tuna, i.e., school, medium and giant. Since a length measurement is a much more accurate indicator of age, consistent with the original management objectives of conservation, and an easier measurement for the fisherman to make than that of weighing a fish, NMFS adopts the use of a length measurement in place of the weight measurement in defining the size categories of Atlantic bluefin tuna. The use of a length equivalent for the 14 lb. limit can be

implemented consistent with the Commission's recommendation setting the minimum size at 14 lbs. because the Commission also allows a 15 percent tolerance for incidental catch of smaller fish, which could cover any deviations in the length-weight equivalency.

Other Issues

One commentator asked to have specific geographical areas or "windows" established for fishing grounds near principal recreational fishing centers; and that these "windows" be declared off limits to purse seine vessels. It was stated that for many years a few fishing grounds tended to be areas where bluefin tuna concentrated. These concentrations of tuna, because of their proximity to boating centers, were depended upon by recreational fishing vessels. Thus, the grounds provided a fishing opportunity for many anglers. However, when purse seine vessels found the tuna in those areas, they would make several sets and effectively eliminate the tuna from the area for the rest of the season. By placing a few areas off limits to purse seine vessels by the use of "windows," at least for the summer fishing season, it would eliminate a gear conflict problem. Mention was made of several areas off eastern Long Island, New York, as possible sites. However, no specific details were offered as to the extent of exact sites. Because of the breadth and impact of this proposal, NMFS believes it needs further study before it can properly be evaluated.

Several commentators at the various public hearings stated that they desired special quotas for existing or new bluefin tuna fisheries. One commentator stated he would like to see a special quota and a special catch rate for bluefin tuna tournaments. This catch rate should be larger than what currently exists in order to attract people to the tournaments. Another commentator stated he would like to see a special quota for a gill net or troll fishery for both school-size and giant-size bluefin tuna, and suggested a quota of 500 giants. He also suggested a 350-ton quota of school tuna for a troll fishery. He stated that such a quota would encourge fishermen to make an investment in a new commercial venture. Several other commentators stated that a special quota should be made for longline vessels fishing off the southeast and Gulf of Mexico coasts. One suggested that the quota should be at least as large as the catch made by the Japanese in the Gulf of Mexico. Another commentator stated that the quota for the Southeast longline fishery should be equal to the present quota.

While fishing tournaments are an important part of the United States fishery, NMFS believes that tournament fishermen should not be given any increased advantage over other fishermen in catching bluefin tuna.

Since the international management program is aimed at maintaining mortality at recent levels for conservation purposes, at this time NMFS is reluctant to entice domestic fishermen into developing new bluefin tuna fisheries.

NMFS is presently monitoring the developing domestic longline fishery in the Gulf of Mexico, but, as of this time, insufficient data is available to make a judgment as to what action should be taken.

Several commentators stated that the East and Gulf coasts of the United States should be subdivided into small geographical areas whereby quotas could be established in each area. They reasoned that because of the seasonality of the bluefin tuna catch, fishermen living along a different region of the coast would have an equal opportunity in harvesting bluefin tuna when they occur in their area. Some commentators stated that there should be five geographical areas, others stated three, and others were not sure how best to divide the coast into areas. It is not clear what a subdivision of the coast would mean to the fishery. Until the effects of this can be analyzed in more detail, NMFS feels it can take no action at this time.

In every one of the nine public hearings held this past spring, comments arose concerning the foreign longline catch within 200 miles of the United States coast. Many commentators condemned the operation of this fishery. Their common theme was that without sincere international cooperation and enforcement by all countries fishing bluefin tuna, in controlling their countries catch, the rather strict catch regulations imposed by the United States upon its fishermen will have very little conservation value. Also, a number of commentators asked what authority the United States government had to prevent a purse seine vessel flying a foreign flag from fishing off the coast of the United States for bluefin tuna and taking an unrestricted catch. The Atlantic Tunas Convention Act (16 U.S.C. Sections 971–971h) does not address either issue. NMFS agrees that it is important to have sincere international cooperation and intends vigorously to pursue this goal. Under the Convention, nations implement and enforce the ICCAT recommendations for their own fishermen. Highly migratory species of tuna are specifically exempted from the exclusive fisheries management authority of the United States under the Fishery Conservation and Management Act.

Atlantic bluefin tuna have already been reported north of Cape Hatteras, N.C., and the traditional fishery will be starting imminently. Severe confusion will result if the fishery begins under last year's regulations and then switches to the amended regulations a short time later. Because of the changing reporting requirements, if these regulations are not implemented immediately some fish which are caught may go unreported, which will adversely impact the quota. Further, there has already been significant opportunity for public comment, and these final regulations are not very different from the proposed regulations. Therefore, the Assistant Administrator finds that there is good cause to waive the 30-day delayed effectiveness period under the Administrative Procedures Act.

The Assistant Administrator has determined that these final changes to the regulations constitute a major federal action significantly affecting the quality of the human environment. Therefore, in accordance with the National Environmental Policy Act of 1969, a Final Environmental Impact Statement has been prepared. Upon request to Environmental Protection Agency, for reasons stated above, the 30-day review period of the final Environmental Impact Statement has been waived. In addition, these changes have been deemed significant according to the criteria set forth in Executive Order (E.O.) 12044. Pursuant to this Executive Order a Final Regulatory Analysis has been prepared. Copies of both these documents may be obtained by writing the agency official noted above.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h)

Signed in Washington, D.C., this 10th day of June, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Accordingly, 50 CFR Part 285 is amended as follows:

1. In § 285.1 the definition of "Atlantic bluefin tuna" is revised to read as follows:

§ 285.1 Definitions.

* * * * *

"Atlantic bluefin tuna" means *Thunnus thynnus thynnus*. The following class size designations are made for Atlantic bluefin tuna:

(a) Young school tuna—less than 26 inches (67 cm) (14 pounds);

(b) School tuna—equal to 26 inches (67 cm) (14 pounds), but less than 57 inches (145 cm) (135 pounds);

(c) Medium tuna—equal to 57 inches (145 cm) (135 pounds), but less than 77 inches (196 cm) (310 pounds); and

(d) Giant tuna—equal to or greater than 77 inches (196 cm) (310 pounds).

* * * * *

2. Subpart B is revised to read as follows:

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus thynnus*)

Sec.

285.20 Effective period of regulations.
285.21 Vessel permits.
285.22 Dealer license.
285.23 Recordkeeping and reporting.
285.24 Metal tags.
285.25 Prohibitions.
285.26 Presumptions.
285.27 Penalties.
285.28 Purse seine vessel gear restrictions and inspection.
285.29 Permitted fishing.
285.30 Quotas.
285.31 Incidental catch.
285.32 Catch limits.
285.33 Tag and release program.

Authority: Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971(h).

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus thynnus*)

§ 285.20 Effective period of regulations.

These regulations shall remain in effect until superseded, amended, or otherwise suspended.

§ 285.21 Vessel permits.

(a) *Permit Requirements.* Any vessel which fishes for, catches or takes Atlantic bluefin tuna, except vessels operated by anglers fishing for young school or school Atlantic bluefin tuna, must have an appropriate permit issued under this section. Any vessel to which a permit has been issued under this section shall travel to and from the area where it will be fishing under its own power and the operator thereof shall bring under his control with no assistance from other vessels any Atlantic bluefin tuna, except in circumstances where the safety of the vessel or crew is jeopardized or due to other circumstances beyond the control of the operator.

(b) *Categories of Permits.* Each vessel holding a permit under this section shall be registered in one, and only one, of the following categories:

(1) General
(2) Purse Seine
(3) Charter Boat
(4) Harpoon Boat
(5) Incidental Catch

(c) *Registration Procedure.* (1) Any vessel owner applying for a bluefin tuna permit under paragraph (2) of this section shall indicate on the permit application the category in which the vessel is to be registered. Except for purse seine vessels, an owner may change the category in which the vessel is registered by notifying the Regional Director in writing before May 15. For 1980, any such notification of change must be received by the Regional Director before June 30.

(2) A vessel may be registered in the charter boat category only upon sufficient proof to the Regional Director at the time of application for permitted change in registration that the operator of the vessel holds a valid United States Coast Guard motorboat operator's license or ocean operator's license.

(3) Any vessel owner whose vessel uses purse seine gear to fish for Atlantic bluefin tuna in a directed fishery shall apply to the Regional Director on or before June 30, 1980, and April 15 of subsequent years for an allocation. The application shall be in writing and specify the particular size-class or classes of tuna for which the vessel will fish. The owner shall supply information relating to his yearly historical catch of each particular size class of Atlantic bluefin tuna since January 1977, including any Atlantic bluefin tuna caught during the tagging season but excluding any over-quota catches. The owner shall also supply documentation of the vessel's stockholders, owners, partners, or association structure. Vessel allocations will be made in accordance with § 285.32 from the quotas specified in § 285.30 which are reserved for assessment fishing.

(i) The owner of any purse seine vessel to which a vessel allocation of Atlantic bluefin tuna is made shall allow a biological technician duly authorized by the Assistant Administrator to accompany the vessel on any or all fishing trips during which Atlantic bluefin tuna is fished, for the purpose of conducting research and observing operations.

(ii) Research and observation duties shall be carried out in such a manner as to minimize interference with commercial fishing operations. No owner, master, operator, or crew member of a purse seine vessel shall impair or in any way interfere with the research or observations being carried out.

(iii) The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels.

(iv) In order to facilitate observer placement, the owners or operator of any purse seine vessel to which an allocation of Atlantic bluefin tuna has been made shall notify the Northeast Regional Office of the National Marine Fisheries Service at least five days in advance of any fishing trip during which school-size Atlantic bluefin tuna will be pursued.

(4) All permit applications under this section shall be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application shall be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The application shall state the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the official registration or documentation number, the length of the vessel, the tonnage (if known), the area to be fished, and the category in which the vessel is to be registered.

(d) *Category of Registration.* A vessel shall fish only under the quota for the category in which it is registered, and shall use only gear appropriate to that category.

(e) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application shall be considered abandoned.

(f) *Expiration.* Permits issued under paragraph (a) of this section expire when the owner or name of the vessel changes or the vessel is retired from the Atlantic bluefin tuna fishery.

(g) *Duration.* A permit issued under this section continues in full force and effect until it expires or is revoked.

(h) *Alteration.* Any permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(i) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit shall not be considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be carried on board the vessel at all times. The permit shall be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(l) *Revocation.* Permits issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any regulation promulgated thereunder. Any revocation, suspension, or modification shall be in accordance with the procedures set forth in 50 CFR Part 621.

(m) *Fees.* No fee is required for any permit issued under this section.

(n) *Change in application information.* Any change in the information contained in an application submitted for a permit under this section shall be reported in writing to the Regional Director within 15 days of the change.

§ 285.22 Dealer license.

(a) *General.* Any person purchasing or receiving Atlantic bluefin tuna for a commercial purpose from any person or vessel fishing for such tuna shall have a valid license under this section.

(b) *Application.* An application for a dealer license shall be made in writing, signed by the applicant and submitted to the Regional Director at least 30 days prior to the date upon which the applicant desires to have the license made effective. Applications shall provide all of the following information:

(1) The name, mailing address, and telephone number of the applicant;

(2) The expected disposition of Atlantic bluefin tuna purchased (e.g., foreign or domestic markets); and

(3) Whether the applicant will use a buy boat.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a license within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application shall be considered abandoned.

(d) *Expiration.* Any license issued under this section expires on December 31 of the year for which it was issued.

(e) *Duration.* Any license issued under this section continues in full force and effect until it is suspended, revoked, or expires.

(f) *Alteration.* Any license which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement licenses may be issued by the Regional Director. An application for a replacement license shall not be considered a new application.

(h) *Transfer.* Licenses issued under this section are not transferable or assignable. A license shall be valid only for the person to whom it is issued.

(i) *Inspection.* A license issued under this section must be kept at the principal place of business of the dealer. The license shall be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for that purpose.

(j) *Revocation.* Licenses issued under this section may be revoked or suspended by the Assistant Administrator for violations of the Act, or any regulations promulgated thereunder. Any revocation, suspension or modification shall be in accordance with the procedures set forth in 50 CFR Part 621.

(k) *Fees.* No fee is required for any license issued under this section.

(l) *Change in application information.* Any change in the information specified in this section shall be reported to the Regional Director within 15 days of the change.

(m) *Buy boats.* Any buy boat must have a dealer license issued under this section. No vessel to which a valid permit has been issued under Section 285.21 may be issued a license under this section for buy boat operations. No buy boat shall be issued a license under this section unless the owner or operator thereof agrees in writing to allow an agent authorized by the Regional Director to accompany the vessel on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or operator of any buy boat that an agent will be placed on board the vessel. The Regional Director shall reimburse the owner of any buy boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of such observer on that vessel.

§ 285.23 Recordkeeping and reporting.

(a) *Dealer reports.* Any person issued a dealer license under § 285.22 shall:

(1) Maintain an accurate and complete daily report of every Atlantic bluefin tuna received or purchased on forms supplied by the NMFS and file it within two days after the end of each reporting week with the Regional Director. Each report shall specify the number of tuna purchased or received; location where the tuna was caught; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names and addresses); date; metal tag numbers (where applicable); round or dressed weight and fork length (by individual fish or giant tuna); and any other information requested by the Regional Director. Also, dealers using buy boats, in addition to the information required above, shall include the precise time when the tuna are received.

(2) Report within 24 hours the purchase of each giant Atlantic bluefin tuna by completing and returning one of the reporting cards provided for this purpose by the NMFS. Each card shall show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an Agent of the NMFS, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught. This report will be signed by the vessel permit holder or vessel operator.

(3) Submit a report, as required in paragraph (a)(1), whether or not any Atlantic bluefin tuna were received or purchased on any day during any reporting week.

(4) Permit an Authorized Officer, or any employee of the NMFS designated by the Regional Director to inspect any records of transfers, purchases, or receipts of Atlantic bluefin tuna.

(5) Retain in his or her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(b) *Buy boats.* Each operator of a buy boat, in addition to the above, shall notify the Regional Director of any off-loading and request a vessel inspection at least six hours prior to such off-loading. Arrangements shall be made by calling (617) 281–3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling (617) 992–7711. In making the request for inspection, the owner or operator of the buy boat or his designated representative shall provide his name, the buy boat name and certificate number, the number of tuna received, and the location and anticipated time of landing at port.

(c) *Reporting week.* For the purpose of this section the reporting week begins at 12 midnight on Sunday and ends at 12 midnight the following Sunday.

§ 285.24 Metal tags.

(a) *Issuance of tags.* Any person receiving a dealer's license under the provisions of § 285.22, shall be issued numbered metal tags by the NMFS. Tag numbers shall be recorded by the NMFS under the dealer's license number to whom they are issued.

(b) *Transfer of tags.* Tags issued under paragraph (a) of this section are not transferable.

(c) *Affixing tags.* (1) Any dealer who receives or purchases a giant Atlantic bluefin tuna from a fisherman shall affix

immediately to that tuna, between the fifth dorsal finlet and the keel, a tag issued under paragraph (a) of this section at the time the tuna is delivered into his possession.

(2) Any person who catches a giant Atlantic bluefin tuna and does not transfer it to a licensed dealer shall contact the nearest NMFS enforcement office within 24 hours of landing such tuna to make the tuna available for inspection before the issuance or attachment of the metal tag.

(d) *Removal of tags.* A metal tag affixed to any giant Atlantic bluefin tuna shall remain on the tuna until the tuna is either cut into portions for personal consumption or for commercial purposes or sold for export from the United States. If the tag is removed from the tuna for commercial or export purposes, the tag shall be attached to the outside of the container and the tag number must be written legibly and indelibly on the outside of any package or container which holds the tuna or parts thereof and which is being exported or transported domestically for commercial use. If a giant tuna is packed for export, the tag shall also be attached to the container until it is shipped from the United States.

§ 285.25 Prohibitions.

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to:

(a) Fish for, take or catch Atlantic bluefin tuna without a valid permit issued under § 285.21(a) and carried onboard the vessel;

(b) Fish for, take or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.29, except under the provisions of § 285.31, § 285.32(c)(2) or § 285.33;

(c) Fish for, take, or catch Atlantic bluefin tuna in excess of the quotas or sub-quotas specified in § 285.30 except under the provisions of § 285.31 or § 285.33;

(d) Fish for, take or catch Atlantic bluefin tuna in excess of the catch limits specified in § 285.32;

(e) Fish for, take or catch Atlantic bluefin tuna in excess of any vessel allocation made pursuant to § 285.32;

(f) Fish for, take or catch Atlantic bluefin tuna within 100 yards of the cork line of a purse seine net used by any vessel conducting scientific research operations authorized by the NMFS;

(g) Fish for, take or catch in a directed fishery Atlantic bluefin tuna with purse seine nets without an allocation made pursuant to § 285.32;

(h) Fish for, take or catch Atlantic bluefin tuna in a directed fishery with nets other than those specified in § 285.28;

(i) Land any Atlantic bluefin tuna in forms other than round, or eviscerated with the head removed;

(j) Retain any Atlantic bluefin tuna caught under a tag and release permit issued under § 285.33;

(k) Purchase, receive or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna to a person or vessel without a valid dealer license for buy boat operation issued under § 285.22;

(l) Sell, offer for sale or transfer any Atlantic bluefin tuna to any person or vessel without a valid dealer license issued under § 285.22;

(m) Engage in fishing with a vessel holding a permit under § 285.21(a) unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control any Atlantic bluefin tuna (secured to the catching vessel or boated) with no assistance from other vessels, except in circumstances where the safety of the vessel or crew is jeopardized or due to other circumstances beyond the control of the operator;

(n) Fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(o) Fail to affix immediately to any giant tuna, between the fifth dorsal finlet and the keel, an individually numbered metal tag when the tuna has been received or purchased by that person for a commercial purpose from any person or vessel who caught such tuna;

(p) Remove any metal tag affixed to a tuna pursuant to § 285.24 before removal is permitted under that section, or fail to write the tag number on the package as prescribed by that section;

(q) Begin fishing or off-loading from any purse seine vessel to which a certificate has been issued under § 285.21(a) any Atlantic bluefin tuna without first requesting an inspection of the vessel by an agent of the NMFS in accordance with § 285.28;

(r) Ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession or control any Atlantic bluefin tuna which the person knew, or should have known, was taken in violation of this subpart;

(s) Fish for, take or catch Atlantic bluefin tuna with a buy boat;

(t) Fail to report the taking of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or authorized by the NMFS;

(u) Fail to report to the Regional Director in writing any change in the information contained in an application for any permit for a vessel within 15 days of any such change;

(v) Falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

(w) Refuse to permit an Authorized Officer to make inspections for the purpose of checking any records relating to the taking, catching, harvesting, landing, purchase or sale of any Atlantic bluefin tuna required by this subpart;

(x) Make any false statement, oral or written, to an Authorized Officer concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(y) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this subpart, or any other regulation promulgated under the Act;

(z) Refuse to allow a biological technician duly authorized by the Assistant Administration to board and accompany a purse seine vessel on any and all trips during which school-size Atlantic bluefin tuna are fished for or taken.

(aa) Violate any other provision of this subpart, the Act, or any other regulation promulgated pursuant thereto.

§285.26 Presumptions.

For any Atlantic bluefin tuna which is landed eviscerated with the head removed, there shall be a rebuttable presumption for purposes of this subpart that the tuna when caught fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line from the middle of the lateral surface (even if the fish has been beheaded) to the fork of the tail.

Table 1

Original size class (Fork length)	Approximate weights	Length with head off
Young school tuna: Less than 26 inches (67 cm).	Less than 14 pounds	Less than 18 inches (46 cm).
School tuna: Equal to 26 inches (67 cm) but less than 57 inches (145 cm).	From 14 pounds but less than 135 pounds	18 inches (46 cm) but less than 40 inches (137 cm).
Medium tuna: Equal to 57 inches (145 cm) but less than 77 inches (196 cm).	From 135 pounds but less than 310 pounds	40 inches (102 cm) but less than 54 inches (137 cm).
Giant tuna: 77 inches (196 cm) or more.	Larger than 310 pounds	54 inches (137 cm) and over.

§ 285.27 Penalties.

(a) Any person who violates paragraphs (a) through (s), inclusive, of § 285.25 shall be assessed a civil penalty of not more than $25,000, and for a subsequent violation shall be assessed a civil penalty of not more than $50,000.

(b) Any person who violates paragraphs (t) through (z), inclusive, of § 285.25 shall be assessed a civil penalty of not more than $1,000, and for a subsequent violation shall be assessed a civil penalty of not more than $5,000.

(c) Any person who violates paragraph (aa) of § 285.25 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

§ 285.28 Purse seine vessel gear restrictions and inspection.

(a) *Mesh Size.* Any owner or operator of a vessel with a certificate issued under § 285.21(b) conducting a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, shall use a net with a mesh size equal to or smaller than 4.5 inches in the main body (stretched when wet) and which has at least 24 count thread throughout the net.

(b) *Exemption.* The Regional Director may exempt any person from the mesh restrictions in paragraph (a) of this section if he determines that the net sought to be excluded will not result in significant injury or mortality to Atlantic bluefin tuna which are encircled by the net but manage to escape.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a certificate issued under § 285.21(a) shall request an inspection of the vessel and fishing gear by an agent of the NMFS prior to commencing any fishing trip and prior to offloading any Atlantic bluefin tuna. Requests for such inspection shall be made by calling (617) 281–3600 extension 252; or (617) 992–7711. Requests shall be made at least 24 hours prior to commencement of a fishing trip or offloading.

§ 285.29 Permitted fishing.

(a) *School and Giant Atlantic Bluefin Tuna.* (1) *Commencement.* Fishing for, catching or taking giant Atlantic bluefin by vessels using purse seine gear, to which an allocation has been made pursuant to § 285.32 in the regulatory area, may commence on August 15 of each calendar year. Fishing for, catching or taking giant Atlantic bluefin tuna by vessels using gear other than purse seines, and fishing for, catching or taking school Atlantic bluefin tuna by vessels using purse seines or gear other than purse seines in the regulatory area may commence on January 1 of each calendar year: *Provided* that, consistent with the Convention, the act, and this part, the Assistant Administrator may change the commencement of fishing under this section for any size class of Atlantic bluefin tuna for any area and vessel gear type if he determines that such a measure will enable scientific research on the status of the stock and will not prevent the quotas for the affected fishery from being caught based upon historical catch data or other relevant information. The Assistant Administrator shall publish a notice in the **Federal Register** of any change in the commencement of fishing under this section at least 60 days prior to the commencement of the affected fishery. Nothing in this paragraph shall be construed to invalidate any more restrictive commencement date established by any State in waters under its jurisdiction.

(2) *Closure.* (i) *Purse seine vessels.* Any vessel using purse seine nets in a directed fishery for school or giant Atlantic bluefin tuna may fish for such tuna during the time permitted for such fishing, as specified in paragraph (a)(1) of this section, only until the allocation for that vessel made pursuant to § 285.32 is reached. Upon reaching its quota for a particular size class of tuna, a vessel will be deemed to have been given notice that the fishery for such Atlantic bluefin tuna is closed to that vessel.

(ii) *Vessels using gear other than purse seine nets.* The Assistant administrator shall monitor catch and landing statistics of Atlantic bluefin tuna by vessels using gear other than purse seine nets. On the basis of these statistics, he shall project a data when the total catch of giant Atlantic bluefin tuna will exhaust any quota or sub-quota under § 285.30, and shall publish a notice in the **Federal Register** stating that fishing for giant tuna by the type of vessels subject to the quota or sub-quota in the area affected must cease on that date at a specified hour.

(iii) *Charter boats.* Vessels registered in the charter boat category in the northern area may recommence fishing on the first day of any month for which a sub-quota is allocated under § 285.30(b)(2).

(iv) *Angling.* Anglers may continue to catch school tuna as specified in section 285.32(d)(2), and to fish for giant tuna under a tag and release program in accordance with § 285.33.

(b) *Young School and Medium Atlantic Bluefin Tuna.* Fishing for, catching or taking young school or medium Atlantic bluefin tuna by vessels using purse seines or gear other than purse seines in the regulatory area shall be limited at all times during the year to incidental catch in accordance with § 285.31, except that anglers may fish for, catch or take young school and medium tuna at any time in accordance with the limitations specified in § 285.32(d)(2).

§ 285.30 Quotas.

(a) *Purse Seining:* (1) *School tuna.*— The total amount of school Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear is 650 short tons.

(2) *Giant tuna.* The total amount of giant Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear is 300 short tons.

(3) *Assessment fishing.* The total amount of Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear in a directed fishery for such tuna under (a)(1) of this subpart is reserved for assessment fishing.

(b) *Fishing by other than purse seining.* (1) *Total Quota.* The total amount of giant Atlantic bluefin tuna which may be caught in the regulatory area by vessels using gear other than purse seines before fishing is closed under § 285.29(a)(2) is 1,218 short tons (approximately 3,370 fish).

(2) *Northern Area.* No more than 1, 128 short tons (approximately 3,100 fish) of the total quota in this paragraph may be caught in the Northern Area (the area north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Massachusetts, into the Atlantic Ocean). This quota shall be divided into sub-quotas as follows:

(i) General—876 short tons (±2,400 fish).

(ii) Charter boats—102 short tons (±280 fish).

(A) The sub-quota for charter boats is further subdivided into monthly quotas as follows:

(*1*) June—10 short tons, ±30 fish.

(*2*) July—27 short tons, ±75 fish.

(*3*) August—38 short tons, ±100 fish.

(4) September—27 short tons, ±75 fish.

(B) If the sub-quota for any month is not reached, the remainder may be carried over to the following month.

(iii) Harpoon boats—150 short tons (±400 fish).

Vessels issued a bluefin tuna permit under § 285.21(a) shall be placed in the general category, except that a vessel owner either holding a valid bluefin tuna permit or newly applying for a bluefin tuna permit under § 285.21 may register his vessel under the charter boat category in accordance with § 285.21(c)(2) or harpoon boat category in accordance with § 285.21(c)(1).

(3) *Southern Area.* No more than 90 short tons (approximately 270 fish) of the total quota for vessels fishing by other than purse seining in this paragraph may be caught in the southern area (the area west and south of the line drawn through Gay Head Light including the waters of Narragansett Bay).

(c) *Research:* In addition to the quotas set forth in paragraphs (a) and (b) of this section, a scientific quota not to exceed 225 short tons of Atlantic bluefin tuna is established for the purposes of tagging and obtaining age, sex, and other scientific research data. Any research activity shall be authorized by the Director, Southeast Fisheries Center, or his representatives, but in consultation with the Regional Director.

(d) *Incidental Catches.* Atlantic bluefin tuna taken incidentally shall be included in the quotas and sub-quotas of this section.

§ 285.31 Incidental catch.

(a) *Purse seine vessels.* (1) *Giant tuna.* Purse seine vessels fishing for giant tuna in the regulatory area may take incidentally, during any fishing trip, Atlantic bluefin tuna measuring less than 7 inches fork length: *Provided* that, the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of giant Atlantic bluefin tuna onboard the vessel at the end of the fishing trip.

(2) *School tuna.* Purse seine vessels fishing for school tuna in the regulatory area may take incidentally, during any fishing trip, Atlantic bluefin tuna outside that weight class: *Provided* that, the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of school tuna on board the vessel at the end of the fishing trip.

(3) *Attribution.* Atlantic bluefin tuna caught incidentally by purse seine vessels fishing for an allocation of a particular size class tuna shall be applied to that vessel's allocation for such size class tuna.

(b) *Herring, mackerel, menhaden and tuna (other than Atlantic bluefin tuna) purse seine vessels* and *vessels using fixed gear other than traps (pounds, weirs, gill-nets and longlines).* Any person operating a vessel fishing principally for species of fish other than Atlantic bluefin tuna and possessing an Atlantic bluefin certificate under § 285.21 may take, during any fishing trip, Atlantic bluefin tuna of any size class: *Provided* that, the amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish onboard the vessel at the end of the fishing trip.

(c) *Traps.* Any person operating a vessel with a certificate issued under § 285.21(a), which takes Atlantic bluefin tuna incidentally while fishing with traps, may retain Atlantic bluefin tuna: *Provided,* That such tuna do not exceed 2 percent, by weight, of the total amount of all other fish species taken within the preceding 30-day period.

§ 285.32 Catch limits.

(a) *Purse seine vessels.* All owners of purse seine vessels registered under § 285.21(b)(2) and applying for an allocation under the provisions of § 285.21(c)(3) shall receive an allocation of the permitted size class tuna for which an application is submitted. Allocations will be made in the following manner:

(1) The Regional Director shall review all applications for allocations of Atlantic bluefin tuna by July 10, 1980, and by May 1 in subsequent years, to determine the amount of a permitted size class Atlantic bluefin tuna to be allocated to individual vessels. The Regional Director shall divide the purse seine quotas for school and giant size Atlantic bluefin tuna between historical participants (those owners actively engaged in the fishery at some time during the period January, 1977 to December, 1979) and new entrants. Eighty-six percent of the quota will be divided among historical participants and 14 percent among new entrants. No person may be a historical participant and a new entrant.

(2) Historical participants applying for a permitted size class tuna shall receive an allocation from the 86 percent of the quota based upon the number of years the owner has had a vessel in the fishery between January 1977 and December 1979 and the catch by that vessel. Relevant information relating to the catch of a vessel owned by a historical participant and the years it has been in the fishery shall be submitted to the Regional Director before any allocation may be made to that individual's vessel. The Regional Director shall review the sufficiency of such information. No Atlantic bluefin tuna caught in excess of any quota may be used in determining a vessel's allocation.

(3) Each allocation to a historical participant shall be proportional to other historical participants applying for the same size class Atlantic bluefin tuna. It shall be calculated by splitting that part of the total quota reserved for historical participants into 14 percent to be divided proportionally among historical participants based upon their years in the fishery since 1977; and 86 percent to be divided among historical participants proportionally based upon their annual catch since 1977. An individual or joint owner of a purse seine vessel receiving a historical allocation can use, in taking that vessel allocation, either the vessel that had historically participated in the fishery or a replacement vessel, regardless of the replacement vessel's size or carrying capacity; however, if a replacement vessel is used, the vessel being replaced is required to leave the Atlantic bluefin tuna fishery unless the vessel is being sold or transferred to another participant in the fishery. No one vessel may be used to catch more than one allocation.

(4) New entrants applying for a permitted size class tuna shall receive an allocation from the 14 percent of the quota based upon the number of new entrants applying. All new entrants shall receive equal allocations. In the event that no new entrants apply or the Regional Director cannot allocate the total 14 percent of the quota to new entrants, it shall be divided among the historical participants applying for that size class tuna according to the formula set forth in paragraph (a)(3).

(5) Vessels to which an allocation of any permitted size class of tuna is made by the Regional Director shall forfeit such allocation if, in the case of school size tuna, the vessel fails to land any such tuna by August 30; and, in the case of giant size tuna, the vessel fails to land such tuna by September 30. Any vessel allocation which is forfeited shall be divided between historical and new participants according to formula set forth in this section.

(6) Historical participants shall lose their status as such for that year if they fail to meet the performance criteria set forth in paragraph (a)(5), or if the vessel owner no longer wishes to participate in the fishery for a particular size class tuna. In the case of a non-individual vessel owner, the owner shall be deemed to be no longer participating in the Atlantic bluefin tuna fishery as a historical participant if the major

stockholder or partnership or association structure changes.

(b) *Northern Area.* This paragraph applies in the northern area, as defined in § 285.30(b)(2). (1) Vessels fishing for, catching or taking giant Atlantic bluefin tuna, which are registered in the general category under section 285.21(b)(1), shall catch no more than one giant bluefin tuna per day per vessel. On or about August 7, the Assistant Administrator shall review dealer and buy-boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 30 percent or more of the quota of giant bluefin tuna is caught, the allowable catch shall be continued at one giant bluefin tuna per day per vessel. If the Assistant Administrator determines that between 17 and 29 percent of the quota has been caught, the allowable catch shall be increased to two giant bluefin tuna per day per vessel; if less than 17 percent has been caught, the allowable catch shall be increased to three giant tuna per day per vessel. On or about September 7, the Assistant Administrator shall review dealer and buy-boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 84 percent or more of the quota of giant bluefin is caught, an allowable catch of one giant bluefin tuna per day per vessel shall be established. If the Assistant Administrator determines that between 70 and 85 percent of the quota has been caught, the allowable catch shall be increased to two giant bluefin tuna per day per vessel; if the catch is between 60 and 69 percent, the allowable catch shall be increased to three giant tuna per day per vessel. If the Assistant Administrator determines that less than 60 percent of the quota has been caught, the allowable catch shall be increased to four giant tuna per day per vessel. The Assistant Administrator shall publish a notice in the **Federal Register** of any determinations and increases in allowable catch made pursuant to this paragraph.

(2) Vessels registered in the charter boat category as provided in § 285.21(b)(3) shall catch no more than one giant bluefin tuna per day per vessel.

(3) Vessels registered in the harpoon boat category as provided in § 285.21(b)(4) shall not be restricted in their daily catch rate.

(c) *Southern Area.* In the southern area, as defined in § 285.30(b)(3), vessels fishing for, catching or taking giant Atlantic bluefin tuna with gear other than purse seines may take five giant tuna per week per vessel from the commencement of fishing under § 285.29 until the sub-quota in § 285.30(b) for the southern area is reached.

(d) *Angling.* (1) *Giant tuna.* Vessels angling for giant Atlantic bluefin tuna in the regulatory area shall be subject to the catch limits contained in paragraphs (1)–(c) of this section, as appropriate.

(2) *Young school, school and medium tuna.* Vessels angling for young school, school or medium Atlantic bluefin tuna in the regulatory area may take no more than four young school, school or medium Atlantic bluefin tuna each day at any time during the year; *Provided,* That only one of the four may be a medium Atlantic bluefin tuna.

§ 285.33 Tag and release program.

(a) *Tag and Release Permits.* Any angler who wishes to fish for giant Atlantic bluefin tuna after the sub-quota under which his vessel has been issued a certificate has been reached and fishing closed under § 285.29, may fish for giant tuna only with a valid tag and release permit, and tags issued by the NMFS under paragraph (b) of this section. A tag and release permit may be obtained by sending an application, after fishing has been closed under § 285.29, to the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149. Such application shall include the name of the vessel, official Coast Guard or State number(s), name(s) of the owner and master, vessel Atlantic bluefin tuna certificate number, and the general area(s) in which the tag and release activity will be carried out. Upon receipt of a completed application, the Center Director, within 30 days, shall issue a tag and release permit.

(b) *Plastic tags.* Anglers receiving a tag and release permit under paragraph (a) of this section shall also be issued plastic tags and detailed instructions for their use. All giant Atlantic bluefin tuna caught under a tag and release permit shall be tagged before they are released. Such tuna shall be released immediately with a minimum of injury.

[FR Doc. 80-18006 Filed 6-12-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 116
Friday, June 13, 1980

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

Food Safety and Quality Service

9 CFR Part 325

Livestock Lungs and Lung Lobes

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Federal meat inspection regulations to permit inedible livestock byproduct collectors to buy, sell, and transport undenatured livestock lungs, and lung lobes, in commerce, provided they comply with certain prescribed safeguards. If adopted, the proposal will allow these individuals to receive the economic benefits of engaging in such transactions under the prescribed safeguards, which are designed to assure that there is no risk to public health.

DATE: Comments must be received on or before August 12, 1980.

ADDRESSES: Written comments to: Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, DC 20250. (See also comments under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Giesemann, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3219. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant."

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments must be submitted in duplicate to the office of the Executive Secretariat. Comments should bear a reference to the date and page number of this issue of the **Federal Register.** All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

On September 26, 1978, the Federal meat inspection regulations were amended with regard to provisions concerning the sale and transportation, in commerce, of undenatured livestock lungs and lung lobes produced in official establishments, certified and approved foreign establishments, or State inspected establishments (9 CFR 325.8; 43 FR 43444–43445). At that time, the Department noted that comments had been received from members of the pet food industry and inedible livestock byproduct collectors stating that permission to handle undenatured lungs and lung lobes should also be extended to these byproduct collectors.

Information supplied at that time indicated that inedible livestock byproduct collectors supplied about 50 percent of the lungs and lung lobes used by the pet food industry. The preamble to the amendments promulgated on September 26, 1978, stated that a subsequent amendment to the regulations would be proposed to permit these byproduct collectors to handle undenatured livestock lungs and lung lobes under proper safeguards.

The Federal meat inspection regulations allow only lungs and lung lobes derived from inspected and passed livestock carcasses to be bought, sold, and transported in commerce without denaturing. Lungs and lung lobes derived from uninspected livestock carcasses and livestock that died otherwise than by slaughter must be denatured or otherwise destroyed for human food purposes. In addition, lungs and lung lobes affected with disease or pathology, and lungs found to be adulterated with chemical or biological residues must be condemned and may not be saved for pet food or other non-human food purposes (9 CFR 310.16).

Because inedible livestock byproduct collectors may continue to handle lungs and lung lobes derived from uninspected livestock carcasses, strict controls are considered necessary to prevent potential mishandling and commingling of these lungs and lung lobes with lungs and lung lobes eligible to move, in commerce, without denaturing. For this reason, it is proposed to allow byproduct collectors to buy, sell, and transport undenatured lungs and lung lobes prepared by an official establishment, a certified and approved foreign establishment, or a State inspected establishment, only if the undenatured lungs and lungs lobes are in securely closed and properly labeled containers. If the containers are not securely closed or if there is any opening or repackaging of the undenatured lungs and lung lobes by a byproduct collector, then the collector must denature the lungs or lung lobes and properly lable subsequent containers. Although the Department previously has recognized (43 FR 43444) that many of the wires, straps, and other materials permitted for use in effecting secure closure of containers of undenatured lungs and lung lobes may present some risk of injury to persons handling these products, it is believed that protection of the public health requires the secure closure of containers handled by byproduct collectors because of the potential for commingling.

Options Considered

Three options were considered before formulating this proposal:

1. Permit byproduct collectors to handle undenatured lungs and lung lobes with the same control as slaughterers.

2. Continue to allow byproduct collectors to handle denatured lungs and lung lobes and publish a notice that consideration will not be given to extending permission for them to handle undenatured livestock lungs and lung lobes.

3. Permit byproduct collectors to handle undenatured lungs and lung lobes in securely closed containers. Undenatured lungs and lung lobes in containers that are color banded, or are

not otherwise securely closed, or are opened by the collector for repackaging or any other purpose would have to be denatured.

The first option would have allowed inedible byproduct collectors to handle undenatured lungs and lung lobes with few restrictions. It would be possible for byproduct collectors to handle containers of undenatured lungs and lung lobes that were not securely closed. Since collectors also handle materials from animals which died otherwise than by slaughter, there would be the risk that these materials may be commingled with the undenatured lungs and lung lobes which are derived from inspected and passed livestock. Therefore, this might pose a threat of adulterated material entering food channels.

The second option considered would not achieve the flexibility sought by byproduct collectors.

Therefore, the third option was accepted and incorporated into this proposal. Accordingly, it is proposed that § 325.8 of the Federal meat inspection regulations (9 CFR 325.8) would be amended by adding a new paragraph (e) to read as follows:

§ 325.8 Transportation and other transactions concerning certain undenatured lungs or lung lobes from official establishments or in commerce; provisions and restrictions.

* * * * *

(e) Any collector of inedible livestock byproducts who is registered as a wholesaler in accordance with the requirements of § 320.5 of the regulations (9 CFR 320.5), may buy, sell, transport, offer for sale or transportation, or receive for transportation in commerce, undenatured livestock lungs or lung lobes prepared by an official establishment, a certified and approved foreign establishment, or a State inspected establishment, provided that the lungs and lung lobes are in securely closed and properly labeled containers in accordance with provisions of this section. Securely closed containers of undenatured lungs and lung lobes may be sold, transported, or offered for sale or transportation for nonhuman food purposes by any inedible livestock byproducts collector to those establishments or individuals identified in paragraph (a)(1) of this section. If any container of undenatured lungs or lung lobes handled by an inedible livestock byproduct collector is color banded only, or is otherwise not securely closed or is opened by the collector for repackaging or for any other purpose, the lungs or lung lobes shall be denatured in accordance with § 325.13 of this subchapter.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 42 FR 35625, 35626, 35631)

Done at Washington, D.C., on June 5, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[40 FR Doc. 80-17669 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR PART 201

[Docket No. R-0307]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) provides that a depository institution that maintains transaction accounts or nonpersonal time deposits is entitled to the same discount and borrowing privileges as banks that are members of the Federal Reserve System. In order to implement this provision, the Board proposes to revise its rules relating to the provision of Federal Reserve credit presently contained in Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR Part 201).

DATE: Comments must be received by July 15, 1980.

ADDRESS: Comments should be addressed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551. Comments can also be delivered to room B-2223 at the above address between 8:45 a.m. and 5:15 p.m. All comments should refer to Docket No. R-0307.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202-452-3625) or John Spitzer, Senior Economist (202-452-2587), Board of Governors of the Federal Reserve System, Washington, D.C.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) provides that any depository institution that holds transaction accounts or nonpersonal time deposits shall be entitled to the same discount and borrowing privileges as member banks. The Board proposes to implement this provision by amending its rules regarding access to Federal Reserve credit currently provided for in Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR Part 201).

The proposed regulation provides that Federal Reserve credit may be offered under two basic programs—adjustment and extended. Non-member depository institutions that are now eligible to borrow from the Federal Reserve would, like member banks, be expected to rely on other reasonably available sources of funds before turning to the discount window for assistance. Consequently, institutions that have access to credit programs provided by Federal Home Loan Banks, credit union centrals, or the Central Liquidity Facility of the National Credit Union Administration would be expected to seek assistance from these sources prior to requesting credit from the Federal Reserve.

The primary form of Federal Reserve lending would continue to be short-term *adjustment* credit. Such credit is available on a very short-term basis to assist borrowers in meeting temporary requirements for funds, or to cushion more persistent fund outflows pending an orderly adjustment of the borrower's assets and liabilities. Borrowing is not permitted to take advantage of a favorable spread between the discount rate and other market rates, to add to investment portfolios, or to finance a program of loan expansion.

Interest on Federal Reserve adjustment credit would generally be at the basic discount rate. However, the Federal Reserve would retain the option to impose a surcharge in addition to the basic rate. While the discount rate surcharge introduced for a brief period earlier this year applied only to large institutions, any surcharge that may be imposed could apply to any institution that was eligible to borrow depending upon the length and frequency of the borrowing.

In addition to this primary program for short-term adjustment credit, under the proposed regulation *extended* credit would be available under certain limited conditions. It would continue regular arrangements for providing seasonal credit to smaller institutions that lack ready access to national money markets or to special industry lenders. In determining a depository institution's eligibility for seasonal credit, Federal Reserve Bank discount officers would give weight not only to its historical record of seasonally adjusted loan and deposit performance, but would also take account of evidence with regard to changing patterns of recent and prospective needs for funds and liquidity conditions at the institution. The special program for seasonal credit adopted as a temporary measure on April 17, 1980 would be terminated

when the new regulation becomes effective.

Extended credit would also be available to meet the needs of a depository institution experiencing difficulties arising from exceptional circumstances or practices involving only that institution, where the provision of such temporary assistance is in the public interest. In addition, when conditions warrant, extended credit would be available to accommodate the needs of institutions, including those with longer term asset portfolios, that may be experiencing difficulties adjusting to changing money market conditions over a longer period than covered by adjustment credit, particularly at times of deposit disintermediation.

Advances made under the seasonal credit program would be at the basic discount rate; as with adjustment credit, however, the Federal Reserve would reserve the option to apply a surcharge above the basic rate. The rate applicable to other extended credit would normally be above the basic rate, though the applicable rate would, of course, depend on market conditions at the time.

In view of the March 31, 1980 effective date of the discount window provisions of the Monetary Control Act, the Board has determined to shorten the length of the comment period normally provided to the public. Accordingly, comments on these proposals should be submitted to the Board by July 15, 1980.

Pursuant to authority under sections 10(a), 10(b), 13, 13a, 19 of the Federal Reserve Act (12 U.S.C. 347a, 347b, 343–347, 347c, 347d, 348–352, 374, 374a), as amended by the Monetary Control Act of 1980 (Title I, Pub. L. 96–221; 94 Stat. 132), the Board proposes to amend Regulation A (12 CFR Part 201) to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Sec.
201.1 Authority, scope and purpose.
201.2 Definitions.
201.3 Availability and terms.
201.4 Advances and discounts.
201.5 General requirements.
201.6 Federal Intermediate Credit Banks.

Authority: Secs. 10(a), 10(b), 13, 13a, 19, Federal Reserve Act (12 U.S.C. 347a, 347b, 343–347, 347c, 347d, 348–352, 374, 374a), as amended by the Monetary Control Act of 1980 (Title I, Pub. L. 96–221; 94 Stat. 132).

§ 201.1 Authority, scope and purpose.

(a) *Authority and scope.* This Part is issued under the authority of sections 10(b) and 13 of the Federal Reserve Act (12 U.S.C. 347b, 343 *et seq.*, 347c) and other provisions of the Federal Reserve Act and relates to extensions of credit by Reserve Banks to depository institutions and others. Except as may be otherwise provided, this Part shall be applicable to United States branches and agencies of foreign banks subject to reserve requirements under Regulation D (12 CFR Part 204) in the same manner and to the same extent as member banks.

(b) *Purpose.* Extending credit to depository institutions to accommodate commerce, industry, and agriculture is a principal function of Reserve Banks. While open market operations are the primary means of affecting the overall supply of reserves, the lending function of the Reserve Banks is an effective method of supplying reserves to meet the particular credit needs of individual depository institutions. The lending functions of the Federal Reserve System are conducted with due regard to the basic objectives of monetary policy and the maintenance of a sound and orderly financial system. These basic objectives are promoted by influencing the overall volume and cost of credit through actions that affect the volume and cost of reserves to depository institutions. Borrowing by individual depository institutions, at a rate of interest that is adjusted from time to time in accordance with prevailing economic and money market conditions, has a direct impact on the reserve positions of the borrowing institutions and thus on their ability to meet the credit needs of their customers. However, the effects of such borrowing do not remain localized but have an important bearing on overall monetary and credit conditions.

§ 201.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *"Depository institution"* means an institution that maintains reservable transaction accounts or nonpersonal time deposits and which is:

(1) An insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or a bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(2) A savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(f), (g));

(3) An insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or a credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(4) A member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and

(5) An insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or an institution that is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).

(b) *"Transaction account and nonpersonal time deposits"* have the meanings specified in Part 204 of this title (Regulation D).

§ 201.3 Availability and terms.

(a) *Short-term adjustment credit.* Federal Reserve credit is available on a short-term basis to a depository institution, under such rules as may be prescribed to assist the institution, to the extent appropriate, in meeting temporary requirements for funds, or to cushion more persistent outflows of funds pending an orderly adjustment of the institution's assets and liabilities. Such credit normally is available only after reasonable alternative sources of funds, including credit from special industry lenders, have been fully used. Under certain circumstances, a surcharge may be imposed above the basic rate of interest charged by Reserve Banks.

(b) *Extended credit*—(1) *Seasonal credit.* Federal Reserve credit is available for periods longer than those permitted under adjustment credit to assist smaller depository institutions in meeting regular needs for funds arising from a combination of expected patterns of movement in their deposits and loans. Seasonal credit is available only if similar assistance is not available from other special industry lenders. Seasonal credit will ordinarily be limited to the amount by which the depository institution's seasonal needs exceed certain percentages, established by the Board of Governors, of the institution's average total deposits in the preceding calendar year. Such credit will be available if the Reserve Bank is satisfied that the institution's qualifying need for funds is seasonal and will persist for at least four weeks. Need for credit at depository institutions will also be given consideration when institutions are experiencing unusual seasonal demands for credit in a period of liquidity strain. To the extent practicable, a depository institution should arrange in advance for seasonal credit for the full period during which such credit is expected to be required.

(2) *Other extended credit.* Federal Reserve credit is available to eligible depository institutions under extended credit arrangements where similar assistance is not reasonably available from other sources, including special industry lenders. Such credit may be provided where there are exceptional

circumstances or practices involving only a particular depository institution. Exceptional circumstances would include situations where an individual depository institution is experiencing financial strains arising from particular circumstances or practices affecting that institution—including sustained deposit drains, impaired access to money market funds, or sudden deterioration in loan repayment performance. Extended credit may also be provided to accommodate the needs of depository institutions, including those with longer term asset portfolios, that may be experiencing difficulties adjusting to changing money market conditions over a longer period, particularly at times of deposit disintermediation. A special rate above the basic discount rate established by the Reserve Banks, subject to review and determination by the Board of Governors, may be applied to extended credit.

(c) *Emergency credit for others.* In unusual and exigent circumstances, a Reserve Bank may, after consultation with the Board, advance credit to individuals, partnerships, and corporations that are not depository institutions if, in the judgment of the Reserve Bank, credit is not available from other sources and failure to obtain such credit would adversely affect the economy. The rate applicable to such credit will be above the highest discount rate in effect for depository institutions. Where the collateral used to secure such credit consists of assets other than obligations of, or fully guaranteed as to principal and interest by, the United States or an agency thereof, an affirmative vote of five or more Board members is required before credit may be extended.

§ 201.4 Advances and discounts.

(a) Reserve Banks may lend to depository institutions either through advances secured by acceptable collateral or through the discount of certain types of paper. Credit extended by the Federal Reserve generally takes the form of an advance.

(b) Reserve Banks may make advances to any depository institution if secured to the satisfaction of the Reserve Bank. Satisfactory collateral generally includes United States government and federal agency securities, and, if of acceptable quality, mortgage loans covering 1–4 family residences, state and local government securities, and customer notes.

(c) If a Reserve Bank concludes that a depository institution will be better accommodated by the discount of paper than by an advance, it may discount any paper endorsed by the depository institution which meets the following requirements:

(1) *Commercial or agricultural paper.* A note, draft, or bill of exchange issued or drawn or the proceeds of which have been or are to be used (i) in producing, purchasing, carrying, or marketing goods in the process of production, manufacture, or distribution; (ii) for the purchase of services; (iii) in meeting current operating expenses of a commercial, agricultural, or industrial business; or (iv) for the purpose of carrying or trading in direct obligations of the United States. Such paper, at the time of discount, must have a period remaining to maturity of not more than 90 days, except that agricultural paper (including paper of cooperative marketing associations) may have a period remaining to maturity of not more than nine months, and the proceeds of such paper must not have been, or are not to be used, merely for the purpose of investment, speculation, or dealing in stocks, bonds, or other such securities, except direct obligations of the United States.

(2) *Bankers' acceptances.* A banker's acceptance (i) arising out of an importation or exportation or domestic shipment of goods or the storage of readily marketable staples; or (ii) drawn by a bank in a foreign country or dependency or insular possession of the United States for the purpose of furnishing dollar exchange. Such acceptance must comply with applicable requirements of section 13 of the Federal Reserve Act (12 U.S.C. 346).

(3) *Construction paper.* A note representing a loan made to finance construction of a residential or farm building, whether or not secured by a lien upon real estate, which matures not more than nine months from the date the loan was made and, at the time of discount, has a period remaining to maturity of not more than 90 days, if accompanied by an agreement requiring a third person acceptable to the Reserve Bank to advance the full amount of the loan upon completion of such construction.

§ 201.5 General requirements.

(a) *Credit for capital purposes.* Federal Reserve credit is not a substitute for capital.

(b) *Compliance with law and regulation.* All credit extended under this part shall comply with applicable requirements of law and of this part. Each Reserve Bank (1) shall keep itself informed of the general character and amount of the loans and investments of depository institutions with a view to ascertaining whether undue use is being made of credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions, and (2) shall consider such information in determining whether to extend credit.

(c) *Information.* A Reserv Bank shall require such information as it believes appropriate or desirable to insure that paper tendered as collateral or for discount is acceptable and that the credit provided is used in a manner consistent with this part.

(d) *Indirect credit for others.* Except with the permission of the Board of Governors, no depository institution shall act as the medium or agent of an institution that is not a depository institution (other than a Federal Intermediate Credit Bank) in receiving Federal Reserve credit.

§ 201.6 Federal Intermediate Credit Banks.

A Reserve Bank may discount for any Federal Intermediate Credit bank (a) agricultural paper, or (b) notes payable to and bearing the endorsement of the Federal Intermediate Credit Bank that cover loans or advances made under subsections (a) and (b) of § 2.3 of the Farm Credit Act of 1971 (12 U.S.C. 2074) and secured by paper eligible for discount by Reserve Banks. Any paper so discounted shall have a period remaining to maturity at the time of discount of not more than nine months.

By order of the Board of Governors, June 10, 1980.

Griffith L. Garwood,

Secretary of the Board.

[FR Doc. 80-17938 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 543, 552

[No. 80-366]

Federal Savings and Loan System; Conversion From State Stock to Federal Stock Charter

June 6, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: Pursuant to title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Board is proposing to amend its regulations to permit state stock savings and loan type institutions to convert to Federal stock associations. The proposed amendments cover the areas of eligibility, application procedures, vote by members, and issuance of a Charter S.

DATE: Must be received by: July 14, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION PLEASE CONTACT: John P. Soukenik, Attorney, (202) 377-6427, or Douglas P. Faucette, Senior Associate General Counsel, (202) 377-6410, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 404 of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 161, amends section 5(i) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(i)) to provide that "* * * any State stock savings and loan type institution may (if such institution existed in stock form for at least the 4 years preceding (March 31, 1980, the date of enactment)) convert its charter to a Federal stock charter under this Act.

At present, the Board's regulations set forth the procedures for conversion from a state association to a Federal mutual association. These procedures, set forth in Part 543 of the Board's rules and regulations for the Federal Savings and Loan System (12 CFR Part 543), require a converting institution to meet certain eligibility requirements, file a plan of conversion in a preliminary application, present the proposal to its membership for approval, and file a formal application for Board approval. Because the present regulations provide a general framework for the conversion from state to Federal charter, the proposed amendments vary the existing conversion framework only when it is necessary to make special provisions for conversion to Federal stock charter.

Under the proposed amendments, a new section, § 552.2-1, would be added to the regulations. Section 552.2-1 would establish procedures that a state stock savings and loan type institution must follow in order to convert to a Federal stock association. Instead of listing each step in the conversion process, § 552.2-1 would incorporate by reference existing procedures required for conversion from a state-chartered stock or mutual to a Federally-chartered mutual association. However, in place of the requirement that stockholders in the state stock institution receive accounts in the Federal mutual association in exchange for their stock, a state stock institution converting to a Federal stock association would be required to submit a plan of conversion which provides that stockholders of the state stock institution receive shares of stock representing an equal share of the ownership interest in the new Federal stock association.

Section 552.3, which provides for the issuance of a Charter S to Federal stock institutions, would be amended to provide for the issuance of such a charter to institutions converting under new § 552.2-1. The charter issued would be identical to a charter issued to a Federal mutual association converting to stock form, except that the provision covering liquidation accounts would be deleted; the maintenance of such an account is necessary only when the equity interest is transferred from the membership to stockholders. In a conversion from a state stock to a Federal stock association, the ownership interest after the conversion remains with the same group, the stockholders. Under the proposal, § 552.3 would also be amended to preclude incorporation of the optional provision contained in § 552.4(b) in the Charter issued to an association converting from state stock to Federal stock form. The optional provision contained in § 552.4(b) is designed solely to protect a converted association from takeover during the period the association is vulnerable by reason of its "cash rich" position; § 552.4(b) has no applicability to conversions involving state stock to Federal stock form. Section 552.4(b) would be amended to specifically limit applicability of the optional provision to cases involving conversion from mutual to stock form.

The proposed amendments would reorganize § 543.9 to facilitate the incorporation of existing conversion procedures into new § 552.2-1. Under the proposed amendments, existing § 543.9(a) would be subdivided to create a new subsection entitled "Plan of conversion" which separately delineates each of the present requirements of the conversion plan. The provision contained in § 543.9(a) that requires compensation to accountholders and, if applicable, to stockholders of the state institution in the form of accounts in the Federal mutual association would be subdivided to provide separate provisions for accountholders and stockholders. The subdivision would not affect the right of accountholders and stockholders of a state stock association to receive compensation in the form of accounts when a stock association converts to a Federal mutual association. The subdivision, however, clarifies the present requirements for conversion to a Federal mutual form and facilitates the incorporation of appropriate provisions of the mutual conversion requirements into § 552.2-1 governing conversion to Federal stock form.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend §§ 543.9, 552.3, and 552.4 of the Rules and Regulations for the Federal Savings and Loan System to read as follows, and to add a new § 552.2-1 thereto, to read as set forth below:

PART 543—INCORPORATION, ORGANIZATION AND CONVERSION

1. Amend § 543.9 by revising paragraph (a), by adding a new paragraph (b) to read as set forth below, and by redesignating former paragraph (b) as paragraph (c).

§ 543.9 Preliminary application.

(a) *Filing.* Any member desiring to convert itself into a Federal association shall, after approval by its board of directors, file an application in duplicate through its Bank on forms obtained from the Bank or the Board. A non-member institution eligible to apply for membership may likewise file such an application, simultaneously with its application for membership, through the Bank of which it proposes to become a member. The applicant shall submit any financial statements or other information the Board may require and pay all costs, determined by the Board, of the Board's consideration of the application.

(b) *Plan of conversion.* The applicant shall submit with its application a plan of conversion specifying the location of the home office and any branch offices to be maintained by the Federal association and providing for:

(1) Appropriate reserves and surplus for the Federal association;

(2) Satisfaction in full or assumption by the Federal association of all creditor obligations of the applicant;

(3) Issuance by the Federal association of its savings accounts to holders of withdrawable accounts in an amount equaling the value of such accounts; and

(4) If applicable, issuance of additional savings accounts to holders of nonwithdrawable capital stock of the applicant in an amount equalling the value of their nonwithdrawable capital stock, including the present value of any preference to which such holders are entitled.

PART 552—STOCK ASSOCIATIONS

2. Add new § 552.2-1 as follows:

§ 552.2-1 Conversion from state stock to Federal stock charter.

With the approval of the Director of the Office of Industry Development and the

concurrence of the Office of General Counsel, any state stock savings and loan type institution that had existed in stock form prior to March 31, 1976, may convert to a Federal stock association subject to its compliance with the requirements set forth in §§ 543.8 through 543.12 of this subchapter governing conversion to Federal mutual association. In lieu of compliance with the requirement of § 543.9(b)(4), an applicant shall provide for the holders of nonwithdrawable capital stock of the applicant to exchange, on a one-for-one basis, each share of such stock for a share of nonwithdrawable capital stock in the Federal stock association. The new types and classes of stock shall be the same as the former types and classes; however, types and classes of stock that contain provisions inconsistent with the provisions and standards set forth in Charter S shall be amended to conform therewith.

3. Amend § 552.3 to read as follows:

§ 552.3 Issuance of charter.

(a) Unless otherwise determined by the Board by advice in writting, a Federal association which has amended its charter pursuant to § 552.2 shall be issued a form of Charter S, or a form including one or more additional provisions as set forth in § 552.4 if such provisions are specifically requested.

(b) A form of Charter S shall be issued to a state stock savings and loan type institution which has converted to a Federal stock association pursuant to § 552.2–1, except that in a case not involving a converted association, Section 7 requiring a liquidation account and all references thereto shall be deleted from the form, Sections 8 and 9 shall be redesignated Sections 7 and 8 respectively, and the optional provision contained in § 552.4(b) shall not be available.

4. Amend the first sentence of § 552.4(b) to read as follows:

§ 552.4 Optional charter provisions.

* * * * *

(b) Except as to associations with a Charter S not issued in connection with a conversion from mutual to stock form, amend Charter S by redesignating Sections 8 and 9 as Sections 9 and 10 and add a new section as follows: * * * * * * * * *

(Sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464), Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., p. 1071, sec. 105, Pub. L. 93–495, October 28, 1974; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; (12 U.S.C. 1725, 1726, 1730); sec. 5, 48 Stat. 132 as amended; (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 80–17960 Filed 6–12–80; 8:45 am]

BILLING CODE 6720–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 211, 229, 240, 249

[Release No. 34–16877; AS–278; File No. S7–839]

Statement of Management on Internal Accounting Control

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed rules; invitation for further comment.

SUMMARY: The Commission today announces the withdrawal of rule proposals which, if adopted would have required inclusion of a statement of management on internal accounting control in annual reports on Form 10–K filed with the Commission under the Securities Exchange Act of 1934 and in annual reports to security holders furnished pursuant to the proxy rules. The rule proposals would also have required that the management statement be examined and reported on by an independent accountant.

The Commission's decision to withdraw the rule proposals at this time is based, in part, on a determination that the private-sector initiatives for public reporting on internal accounting control have been significant and should be allowed to continue. The Commission believes that the action announced today will encourage further voluntary initiatives and permit public companies a maximum of flexibility in experimenting with various approaches to public reporting on internal accounting control. Further, the Commission urges similar experimentation concerning auditor association with such statements.

The Commission intends to give further consideration to rule proposals concerning management reports, and auditor association with them, based upon three years' experience. In order to supplement the information which the Commission obtained in the course of the instant rulemaking proceeding and through its analysis of reports for 1979, the Commission intends to continue a monitoring program through the spring 1982. As a part of that program, the Commission will monitor carefully private-sector initiatives in this area, as well as issuer practice in voluntarily providing management statements on internal accounting control and in engaging independent accountants to report on such statements. Although particular emphasis will be given to management statements on systems of internal accounting control and related efforts to develop professional standards for conducting examinations of such systems, the Commission will also monitor efforts to implement the broader recommendations of the Commission on Auditors' Responsibilities concerning comprehensive management reports.

In conjunction with its monitoring effort, the Commission is again inviting public comment both on the progress being made by the private sector, as well as on what regulatory action the Commission might consider in this area. In addition, the Commission is also encouraging comments on other issues and matters discussed in this release.

Should the Commission's monitoring effort or the comments which it receives identify a specific need for further Commission action, the Commission stands ready to take whatever appropriate regulatory action may be indicated. In any event, however, a more comprehensive reconsideration of this area by the Commission can be expected after the Commission has had the benefit of its analysis of three years' experience with voluntary management reporting and auditor involvement.

DATE: June 6, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7–839. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: James J. Doyle or John W. Albert, Office of the Chief Accountant (202–272–2130), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is withdrawing proposed amendments to Form 10–K (17 CFR 249.310); Regulation 14A (17 CFR 240.14a–1 et seq.) and Regulation S–K (17 CFR 229.20 et seq.) which would have required inclusion of a statement of management on internal accounting control in Forms 10–K and in annual reports to security holders furnished pursuant to Rule 14a–3 (17 CFR 240.14a–3). The proposed amendments would also have required that the statement of management on

internal accounting control be examined and reported on by an independent accountant. The amendments were proposed for public comment in Securities Exchange Act Release No. 15772, April 30, 1979 (44 FR 26702).[1]

The withdrawal of these proposals at this time should not be interpreted as a change in the Commission's views concerning the importance of effective systems of internal accounting control and of management reporting on and auditor examination of such controls. Indeed, the Commission continues to believe that such systems are essential to sound business management for reasons wholly apart from legal requirements, and that its action in proposing management statements on internal accounting control and auditor involvement with such statements should be viewed in that context.

Moreover, some assurance concerning the existence of an effective system of internal accounting control is important to investors because it is that system which provides the basis for the preparation of reliable financial statements and, more broadly, for the overall corporate system of accountability. Further, without effective internal accounting control, management—and investors—cannot be assured that unaudited financial statements and other unaudited financial information prepared and disseminated by the issuer are reliable. Finally, without effective internal accounting control, management cannot be reasonably assured that it is appropriately fulfilling its other statutory responsibilities for accountability to investors—to safeguard the company's assets from unauthorized use or disposition, to determine that the company's transactions are appropriately authorized, and to compare actual assets with the related records and act on any differences.[2]

The Commission's rule proposals concerning internal control reporting met substantial opposition. Many commentators viewed the proposals as having the effect of requiring a report on compliance with the law,[3] rather than as providing a medium for meaningful disclosure to investors. Objections were also raised concerning the costs of compliance with the proposed rules and the scope and content of the proposed management statement. Commentators also pointed to the significant voluntary and private-sector initiatives which have been undertaken in this area and urged the Commission not to preempt such efforts through the promulgation of formal legal requirements at this time. While the Commission does not agree with all of the concerns expressed by commentators, it has decided nevertheless not to proceed with rulemaking at this time based upon a determination to allow existing voluntary and private-sector initiatives for public reporting on internal accounting control—by both registrants and accountants—to continue to develop.

Thus, although the Commission is withdrawing its rulemaking proposals at this time, it continues to believe that a report containing management's assessment of the effectiveness of the issuer's system of internal accounting control would provide information important to investors, and that auditor involvement with such a report may be needed. Accordingly, the Commission intends to monitor closely the results of voluntary efforts and private-sector initiatives in this area and will consider the need to require:

1. Management statements on internal accounting control;
2. Comprehensive management reports in general; and
3. Public reporting by independent accountants on internal accounting control.

I. Background

A. *Enactment of the Foreign Corrupt Practices Act.*—Management reporting on internal accounting control has received a substantial amount of attention since the enactment of the accounting provisions of the Foreign Corrupt Practices Act of 1977 (the "FCPA").[4] These provisions require [5] that certain issuers (a) "make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer"; and (b) "devise and maintain a system of internal accounting control sufficient to provide reasonable assurances that:

"(i) Transactions are executed in accordance with management's general or specific authorization;

"(ii) Transactions are recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (b) to maintain accountability for assets;

"(iii) Access to assets is permitted only in accordance with management's general or specific authorization; and

"(iv) The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences."

These statutory objectives of a system of internal accounting control were taken almost verbatim from Section 320.28 of *Statement on Auditing Standards No. 1* ("SAS No. 1").[6] Thus, the enactment of the FCPA has tranformed these objectives from professional auditing standards into explicit statutory requirements applicable to corporate management—a change that has important implications for reporting companies.

The statutory objectives do not simply require that transactions be recorded in a manner that will permit preparation of reliable financial statements. The system of internal accounting control must also provide reasonable assurances that "transactions are executed in accordance with management's general or specific authorization"; that "transactions are recorded as necessary * * * to maintain accountability for assets"; that "access to (and use of) assets if permitted only in accordance with management's general or specific authorization"; and that "recorded accountability for assets if compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences." These letter goals are designed to improve the system of corporate accountability in response to evidence that some boards of directors and even corporate officers were unaware of, and hence unable to prevent, allegedly improper use of corporate assets, and that shareholders were also unaware and, thus, unable to remedy this situation.

The Senate Report concerning the FCPA reflects the fact that the accounting provisions are designed to codify a "fundamental aspect of management's stewardship responsibility"—the obligation to provide shareholders "with reasonable assurances that the business is

[1] Hereinafter referred to as the "proposing release."

[2] *See* Section 13(b)(2)(B) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2)(B), discussed *infra*.

[3] *See* id.

[4] Title I of Public Law No. 95-213 (December 19, 1977), *codified as* 15 U.S.C. 78m(b)(2). The FCPA also prohibits corporate bribery of foreign officials, foreign political parties, and candidates for foreign political office for the purpose of obtaining, retaining, or directing business to any person. *See* Section 30A of the Securities Exchange Act, 15 U.S.C. 78dd-1 and 78dd-2. *See generally* Securities Exchange Act Release No. 16593, February 21, 1980 (45 FR 12574).

[5] Section 13(b)(2) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2).

[6] Section 320.28 of SAS No. 1 defines a system of accounting control as "the plan of organization and procedures and records that are concerned with the safeguarding of assets and the reliability of financial records * * *."

adequately controlled."[7] In sum, as one observer has stated, Section 13(b)(2)(B) is

> aimed at management, boards of directors and audit committees. Its aim, much broader than the integrity of financial statements, is to insure a responsible level of corporate governance and an effective discharge of management's stewardship responsibility. This requires a more intensive study of internal controls and a far greater involvement by management in order to establish that a system of internal control exists, that it is well documented, that it is adequately maintained and regularly reviewed and modified to meet changing requirements.[8]

Since the FCPA became effective on December 19, 1977, the Commission has taken the position that "it is important that issuers * * * review their accounting procedures, systems of internal accounting controls and business practices in order that they may take any actions necessary to comply with the requirements contained in the Act."[9] In addition, the Commission set forth its views concerning evaluations of internal accounting control systems at the time it published the rule proposals for public comment.[10]

B. Private-Sector Initiatives

1. *The Cohen Commission.* In 1978, the Commission on Auditors' Responsibilities, which is also known as the "Cohen Commission,"[11] issued its "Report, Conclusions and Recommendations" concerning the appropriate responsibilities of independent auditors. The Report concluded, among other things, that "many users (of financial statements) appear to misunderstand the role of the auditor and the nature of the services that he offers."[12]

In this context, the Cohen Commission recommended "a new approach to reporting" that calls, for, among other things, an annual management report to shareholders which would be designed to acknowledge management's responsibility for the respresentations set forth in the company's financial statements.[13] The Cohen Commission recommended that such a report include management's assurances that (a) "the information (in the financial statements) is presented in conformity with generally accepted accounting principles"; (b) "all material uncertainties have been appropriately accounted for or disclosed"; and (c) "legal counsel has been consulted regarding the accounting for or disclosure of legal matters and that those matters have been appropriately disclosed * * *."[14] The Cohen Commission also recommended that such a report "describe the work of the company's audit committee and its internal auditors," and that it contain a managment statement concerning the company's system of internal accounting control.[15]

With respect to the proposed management statement concerning the company's system of internal accounting control, the Cohen Commission recommended that the report contain "management's *assessment* of the company's accounting system and controls over it, including a description of the inherent limitations of control systems and a description of the company's response to material weaknesses identified by the independent auditor."[16] The rationale for such a statement was stated as follows:

> Users of financial information have a legitimate interest in the *condition* of the (system of internal accounting) controls and management's response to the suggestions of the auditor for corrections of weaknesses. The (Cohen) Commission believes those matters should be disclosed (to shareholders) in the proposed report by management.[17]

The Cohen Commission also recommended an expansion of the audit function through increased involvement in a company's financial reporting process. As a major step in that direction, to be implemented "as soon as possible," the Cohen Commission recommended an expansion of the auditor's "study and evaluation of the controls over the accounting system (in order to premit the auditor) to form a conclusion on the functioning of the internal accounting control system."[18] In this context, the Cohen Commission specifically recommended that "the auditor's study and evaluation of the internal accounting control system should be expanded beyond what is now required by generally accepted auditing standards * * *" to include review and testing of the "entire accounting control system * * * (in order) to enable the auditor to reach a conclusion on whether controls over each significant part of the accounting system provide reasonable, though not absolute, assurance that the system is free of material weaknesses."[19]

The Cohen Commission declared its belief that "the condition of the controls over the accounting system and management's response to the suggestions of the auditors for correction of weaknesses," are matters that "should be disclosed in the proposed report by management."[20] In this context, the Cohen Commission concluded, "[i]t is consistent with the normal responsiblities for financial reporting that primary reporting responsibility be assigned to management with a report by the auditor on management's representations."[21]

The Cohen Commission also stated its view that the auditor "should report on whether he agrees with management's description of the company's accounting controls and should describe material uncorrected weaknesses not disclosed in that report."[22] Illustrative examples of the auditor's report contemplated by the Cohen Commission include the

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[7] S. Rep. No. 95–114, 95th Cong., 1st Sess. (1977), at 8.

[8] *See* Schiff & Sorter, "An Accountant is not a Chairman," New York Times (April 1, 1979).

In contrast, as the AICPA's Special Advisory Committee on Internal Accounting Control pointed out, the objectives set forth in Section 320.28 of SAS No. 1 were originally developed to provide broad professional guidance on the independent auditor's study and evaluation of internal accounting control, which is made for the *limited purpose* of serving as a basis for setting the scope of the examination of financial statements. The auditor tests only those controls on which he intends to rely.

"Report of the Special Advisory Committee on Internal Accounting Control," April 1979, issued by the American Institute of Certified Public Accountants, at 8 (emphasis added).

[9] *See* Securities Exchange Act Release No. 14478 (FEb. 16, 1978); 43 FR 7752 (Feb. 24, 1978).

[10] *See* Securities Exchange Act Release No. 15772, *supra*, note 1.

[11] The reference is to the late Manuel F. Cohen, a former Chairman of the Commission, who served as Chairman of the Commission on Auditors' Responsibilities. The Cohen Commission was an independent commission established by the AICPA to develop conclusions and recommendations regarding the appropriate responsibilities of independent auditors. Its other members included public accountants, an academic, a financial analyst, and an executive officer of a registrant.

[12] The Commission on Auditors' Responsibilities: Report, Conclusions and Recommendations (1978) at xii.

[13] *Id.* at 75–76.

[14] *Id.* at 76.

[15] *Id.* at 76–77.

[16] *Id.* at 76–77 (emphasis added).

[17] *Id.* at 62 (emphasis added). As part of its report, the Cohen Commission set forth an illustration of a report by management that would be consistent with its recommendations, but added a *caveat* that the example was not intended to prescribe "the precise wording that management should use":

> The company maintains an accounting system and related controls to provide reasonable assurance that assets are safeguarded against loss from unauthorized use or disposition and that financial records are reliable for preparing financial statements and maintaining accountability for assets. There are inherent limitations that should be recognized in considering the potential effectiveness of any system of internal accounting control. The concept of reasonable assurance is based on the recognition that the evaluation of those factors requires estimates and judgments by management. *The company's system provides such reasonable assurance* * * *

Id. at 79 (emphasis added).

[18] *Id.* at 60.

[19] *Id.* at 61.

[20] *Id.* at 62.

[21] *Id.*

[22] *Id.*

following: "Based on our study and evaluation of the accounting system and related controls," we: (a) "Concur with the description of the system and controls in the report by management"; or (b) "believe the system and controls have the following uncorrected material weaknesses not described in the report by management * * *": or (c) have certain "other disagreements with the description of the system and controls in the report by mangement * * *." [23] In addition, the Cohen Commission suggested that the auditor's report might include certain other explanatory information in addition to that set forth above.[24]

2. *The Financial Executives Institute.* In June of 1978, the Chairman of the Financial Executives Institute ("FEI") wrote a memorandum to members of the FEI which informed them that the FEI Committee on Corporate Reporting had endorsed the concept of a management report. The memorandum explained:

> We believe that such "reports" will further public understanding of the respective roles of management and the outside auditor, and that the "report" should emphasize that the primary responsibility for financial statements and representations related thereto rests with management. * * * Such a "report" would also provide a convenient vehicle for management to discuss the company's policies, internal accounting controls, and other matters which bear on the quality of financial information.

The Chairman of the FEI strongly urged "all FEI members to take leadership roles in encouraging inclusion of 'management reports' in your company's next annual report." His memorandum concluded:

> Widespread implementation of this management report concept, tailored to fit individual company circumstances, will represent a significant step in improved communication to users of financial statements as to the nature of financial information and the processes which surround its preparation and presentation.

The Chairman of the FEI also sent members a set of "Guidelines for Preparation of a Statement of Management Responsibility for Financial Statements," which set forth several areas that management should consider in preparing a management report. These Guidelines agreed with the conclusion of the Cohen Commission that management reports should include statements concerning management's responsibility for the "preparation and presentation of the financial statements in conformity with generally accepted accounting principles * * *" and for "maintaining a system of internal accounting controls designed to provide reasonable assurances as to the integrity of financial records and the protection of assets." In addition, the FEI's Chairman stated that consideration should be given to including "management's *assessment* of the effectiveness of the internal accounting control system" in such a management report. [25]

3. *The Special Advisory Committee on Reports by Management.* In response to the recommendations of the Cohen Commission, the American Institute of Certified Public Accountants ("AICPA") formed a Special Advisory Committee to consider the subject of reports by management. The Report of the AICPA Special Advisory Committee on Reports by Management concurred in the Cohen Commission's basic conclusion that annual reports should include a report by management on a company's financial statements.[26] The AICPA Report explains that such a report would provide a means of informing financial statement users "of management's responsibility for those statements, the various means by which it is fulfilled, and the roles of others with respect to those statements." [27]

The AICPA Report proposed that management's report should reflect that it "is responsible for all the information, whether audited or unaudited, in the annual report * * *," and that this responsibility "includes making judgments and estimates and selecting accounting principles that are in accordance with generally accepted accounting principles appropriate in the circumstances." [28] The AICPA Report also recommended that management's report should describe "the composition and duties of the audit committee," the role of the independent auditor, and, if there has been a change in auditors, "whether the decision to change was recommended or approved by the audit committee." [29]

In addition, the AICPA Report declared that management's report "should include a *representation* on internal accounting control." [30] It also suggested the type of "representation" that might be appropriate:

> Because of cost-benefit considerations as well as the inherent limitations of the effectiveness of internal accounting control, management's representation should be phrased in terms of reasonable, rather than absolute, assurance that the objectives of internal accounting control are met.[31]

Appendix C to the Advisory Committee Report presents several examples of management statements that have been published in recent annual reports. These examples were intended "to illustrate the (Advisory Committee's) recommendations and to give management general guidance for the development of * * *" management reports.[32] Seven of these illustrations expressed management's opinion that the company's system of internal accounting control "provides reasonable assurances" that certain objectives of such a system are met.[33] Six of the examples state that the system of internal control was "designed" to provide such "reasonable assurances." [34]

4. *Voluntary Inclusion of Management Reports On Internal Accounting Control in Annual Reports to Shareholders.* A number of the comments submitted in response to the proposing release supported the concept of a management report. In this context, many companies indicated that they had voluntarily included a management assessment of the effectiveness of their internal accounting control system in their annual reports for 1978.

For example, 65 companies among those that submitted comments in response to the proposing release indicated that they had included a management report in their annual report to shareholders.[35] In addition, the FEI conducted a review of 410 annual reports for 1978 which found that 106 companies had included a management statement in their annual reports, and that 100 of these statements had

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[23] *Id.* at 78.

[24] *Id.*

[25] Emphasis added. The FEI Guidelines also indicated that "members should consult legal consel regarding the provisions of the Foreign Corrupt Practices Act of 1977."

[26] Conclusions and Recommendations of the Special Advisory Committee on Reports by Management, AICPA, 1979, at 2 (hereinafter referred to as the "AICPA Report").

[27] *Id.* at 1.

[28] *Id.*

[29] *Id.*

[30] *Id.* (emphasis added).

[31] *Id.*

[32] *Id.* at 3.

[33] These examples had been published in the annual reports of Dun & Bradstreet Companies, Inc., Cobe Laboratories, Inc., Eaton Corporation, H. J. Heinz Co., Interlake, Inc., Manufacturers Hanover Corporation, and Safeway Stores, Inc.

[34] These reports were set forth by American Telephone and Telegraph Company, Clark Equipment Company, General Electric Company, Kollmorgen Corporation, McGraw-Edison Company and Owens-Illinois, Inc.

[35] In this regard, the comment letter submitted by Borg-Warner Corporation stated: (O)ur (management) statement indicates that the company's comprehensive system of internal accounting controls provides reasonable assurance that assets are protected from improper use, that material errors are prevented or detected within a timely period, and that records are sufficient to produce reliable financial reports.

discussed management's responsibility for internal accounting control.[36]

5. *The Special Advisory Committee on Internal Accounting Control.* In 1979, the AICPA Special Advisory Committee on Internal Accounting Control issued its Final Report.[37] That Committee was formed to develop criteria to aid management in its evaluation of its system of internal accounting control.

As discussed in some detail below, the Committee Report emphasized the importance of management's consideration of the overall control environment to its design and assessment of a system of internal accounting control and, while cautioning that it was impossible to prescribe detailed rules of general applicability, provided useful guidance to issuers on possible methods and procedures for evaluating internal accounting control systems. The Commission views the Committee's work as a meaningful contribution towards enhancing the ability of issuers to design, implement, review, and maintain systems of internal accounting control fully appropriate to their circumstances.

6. *The Auditing Standards Board.* Finally, at the time the Commission issued the proposing release, a task force of the AICPA's Auditing Standards Board was considering the general issue of public reporting by auditors on internal accounting control. Subsequently, the Auditing Standards Board issued, for public comment, a proposed Statement on Auditing Standards on "Reporting on Internal Accounting Control."[38] The proposed Statement on Auditing Standards would provide standards for an auditor's examination of, and public report on, an issuer's overall system of internal accounting control.

The Commission notes that, under the proposed Statement on Auditing Standards, the auditor's opinion on the system of internal accounting control would not be limited to controls relating to preparation of financial statements. Rather, it would also extend to the corporate accountability objectives of internal accounting control—safeguarding of assets, authorization of transactions, and comparison of actual assets with related records and acting upon any differences. However, it should be emphasized that such an opinion will not necessarily indicate whether an issuer is in compliance with the internal accounting control provisions of the FCPA since, for purposes of limiting the costs of the examination, the auditor's opinion would not extend to the sufficiency of accounting controls relating to the safeguarding of assets and authorization of transactions which would not be material.

C. The Commission's Rule Proposals

Based upon the enactment of the FCPA and the events which gave rise to that legislation, as well as on the broad-based private-sector recommendations for disclosure of management assessments of systems of internal accounting control, and for auditor association with such disclosure, the Commission determined that rules requiring information about the effectiveness of an issuer's system of internal accounting control and auditor association with it might by necessary to enable investors to better evaluate management's performance of its stewardship responsibilities and the reliability of interim financial statements and other unaudited financial information generated from the accounting system. Therefore, on April 30, 1979, the Commission issued for public comment the rule proposals contained in its proposing release and discussed herein.

In proposing release, the Commission emphasized that the proposed rules did not involve matters other than internal accounting control that might be included in a management report, and that the Commission intended to follow closely the further initiatives of the private sector and consider the need to propose additional rules relating to such other matters. In the meantime, the Commission encouraged issuers to provide meaningful disclosure regarding management responsibilities generally.

The proposals evoked substantial public response. Over 950 individuals and organizations submitted letters in response to the Commission's request for public comments. After careful analysis of the comments, the Commission has determined at this time to withdraw the rule proposals for the reasons discussed below.

II. Management Statements Concerning Internal Accounting Control

Proposed Item 7(a) of Regulation S–K would have required a statement of management's opinion as to whether, as of any date after December 15, 1979 and prior to December 16, 1980 for which an audited balance sheet is required, and for periods ending after December 15, 1980 for which audited statements of income are required, the systems of internal accounting control of the registrant and its subsidiaries provided reasonable assurances that

1. Transactions were executed in accordance with management's general or specific authorization;

2. Transactions were recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles (or other applicable criteria), and (b) to maintain accountability for assets;

3. Access to assets was permitted only in accordance with management's general or specific authorization; and

4. The recorded accountability for assets was compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

Probably the most controversial aspect of the proposals was the correlation of proposed Item 7(a) of Regulation S–K and the internal accounting control provisions of the FCPA. As a result of that correlation, many commentators viewed the proposals as essentially a requirement for a statement of compliance with the law. Many of these commentators, therefore, suggested that the rule proposals were apparently intended not to provide useful information to shareholders, but rather to establish useful existence of violations of the FCPA for enforcement purposes and to influence corporate conduct; questioned whether the proposals violated Constitutional protections against self-incrimination; and contended that they were beyond the Commission's statutory authority.[39]

On the other hand, many commentators supported the concept of public reporting on internal accounting control. Many of these commentators endorsed the recommendations of the Cohen Commission and the FEI and the voluntary initiatives by many companies to provide management reports. Nonetheless, most of these commentators also recommended that the Commission not adopt the proposed rules, at least at the present time. These recommendations were based, not only on the perceived legal compliance aspects of the proposals, but also on the belief that the private-sector initiatives for voluntary reporting have been

[36] Preliminary Commission analysis of reporting for 1979 indicates that the trend towards such reports is continuing.

[37] Report of the Special Advisory Committee on Internal Accounting Control, AICPA, 1979.

[38] Proposed Statement of Auditing Standards, "Reporting on Internal Accounting Control," AICPA, December 31, 1979. The comment period ended April 15, 1980.

[39] Approximately 550 commentators viewed the Commission's rule proposals as an attempt to require management to report on its compliance with the FCPA as distinguished from a medium for meaningful disclosure to investors. In addition, approximately 225 commentators expressed the view that the Congress neither required nor intended that such a report be provided.

substantial and should be allowed to continue to develop.[40]

In addition, approximately 100 commentators suggested that a comprehensive management report—such as that recommended by the Cohen Commission, the FEI, and the AICPA's Special Advisory Committee on Reports by Management—which includes, but is not limited to, an assessment of the effectiveness of the issuer's system of internal accounting control would contain more of the information needed by financial statement users than would the limited statement of management on internal accounting control proposed by the Commission. Many of those commentators also expressed their belief that an assessment by management of the effectiveness of internal accounting control would be more informative in that broader context.

The Commission continues to believe that information about the effectiveness of an issuer's system of internal accounting control would enable investors to better evaluate the reliability of interim financial statements and other unaudited financial information, as well as management's performance of its responsibilities to control the assets and transactions of the business. Additionally, it recognizes the ongoing voluntary private-sector initiatives that have been undertaken by registrants to evaluate and document their systems of internal accounting control so as to be in a position to provide such information, and it believes that voluntary development by issuers of management reports which include such information would be preferable to a Commission requirement.

Accordingly, the Commission intends to monitor the results of voluntary efforts to provide such reports. The Commission will evaluate on an ongoing basis the progress that has been made in reports filed in 1980 through 1982 and will consider whether it is necessary or desirable to require statements of management on internal accounting control and to propose more comprehensive management reports.

The Commission's determination in that regard will depend not only upon the extent to which issuers voluntarily provide such management statements or management reports, but also on the appropriateness and usefulness of the information included and the procedures used to develop such reports. As discussed above, in determining to withdraw the instant rule proposals at this time, the Commission has been influenced by the significant constructive attention which the private sector has given to both management reports and related evaluations of internal accounting control. In addition, many commentators on the Commission's rule proposals addressed the content of a management report, as well as the procedures necessary to maintain an effective system of internal accounting control, and urged that the Commission not preempt private-sector initiatives in this area. In an effort to further encourage such voluntary initiatives, while permitting public companies a maximum of flexibility in experimenting with various approaches to public reporting on internal accounting control, the Commission believes that it would be helpful to take this opportunity to provide some guidance regarding these developing matters.

A. Evaluations of Internal Accounting Control

1. *Conceptual Elements.*[41] In the proposing release, the Commisison stated its belief that specific methods of approaching and implementing evaluations of systems of internal accounting control will vary from company to company. Accordingly, the proposed rules did not specify the method of or procedures to be performed in an evaluation of internal accounting control.

The Commision continues to believe that the determination of whether a system of internal accounting control provides reasonable assurances that the broad objectives of internal accounting control are achieved generally will involve the following:

- First, consideration of the overall control environment;
- Second, translation of the broad objectives of internal accounting control into specific control objectives applicable to the particular business, organizational, and other characteristics of the individual company;
- Third, consideration of the specific control procedures and individual environmental factors which should contribute to achievement of the specific control objectives;
- Fourth, monitoring of control procedures and consideration of whether they are functioning as intended; and
- Finally, consideration of the benefits (consisting of reductions in the risk of failing to achieve the objectives) and costs of addtional or alternative controls.

The first element of such a determination might be characterized as evaluation of the overall control environment. The Commission recognizes that such evaluations depend upon a careful exercise of management's judgment, generally involving consideration of matters such as the organizational structure—including the role of the board of directors; communication of corporate procedures, policies, and related codes of conduct; assignment of authority and responsibility; competence and integrity of personnel; accountability for performance and for compliance with policies and procedures; and the objectivity and effectiveness of the internal audit function. The role of the board of directors in overseeing the establishment and maintenance of a strong control environment, and in overseeing the procedures for evaluating a system of internal accounting control, may be particularly important. Similarly, the Commission has repeatedly stressed the importance of audit committees to enable boards of directors to better fulfill their oversight responsibilities with respect to an issuer's accounting, financial reporting, and control obligations.[42]

A strong control environment will not, in and of itself, provide a basis for reasonable assurance that the broad objectives of internal accounting control are achieved. However, the Commission agrees with the AICPA's Special Advisory Committee on Internal Accounting Control that

> [i]t is unlikely that management can have reasonable assurance that the broad objectives of internal accounting control are

[40] Approximately 260 commentators suggested that there have been significant voluntary initiatives with respect to management reporting, and that they should be allowed to continue with a maximum of flexibility.

[41] The Commission believes that the conceptual elements discussed herein also are reflected in the Report of the AICPA's Special Advisory Committee on Internal Accounting Control (*see* note 37, *supra*) as well as in virtually all of the other private publications intended to give guidance on methods of and procedures for evaluating internal accounting control of which it is aware. The Commission believes that the Report of the Special Advisory Committee should be very useful to management by providing a framework which will be helpful in establishing an approach, or apprising the effectiveness of an existing approach, to evaluate whether the broad objectives of internal accounting control are achieved. However, the Special Advisory Committee's Report does not represent a manual that can be followed by companies in evaluating their accounting control systems. This was recognized by the Special Advisory Committee (at p. 8 of the Report): [T]he approach to an evaluation suggested in this report is not the only way an evaluation can be performed, and the criteria included * * * are not and cannot be detailed rules. However, the committee believes that the recommendations in this report should help management in its continuing evaluation and monitoring of internal accounting control.

[42] *See* Securities Exhange Act Release No. 14970 (43 FR 31945), July 18, 1978, which includes a discussion of previous Commission actions regarding audit committees.

being met unless the company has an environment that establishes an appropriate level of control consciousness.[43]

For that reason, an evaluation of the overall control environment may be a particularly important step in evaluating a system of internal accounting control.

The second and third conceptual elements of an evaluation of a system of internal accounting control might be characterized as review of the system. Evaluation of the effectiveness of the design of control procedures in place should relate the broad objectives of internal accounting control to the particular circumstances of a company. The AICPA's Special Advisory Committee on Internal Accounting Control found a transaction cycle approach a convenient way to develop illustrative specific control objectives and examples of specific control procedures and techniques.[44] Some companies might use a transaction cycle approach in reviewing the system; others might organize a review of the system by functional area within the organization or use some other approach or combination of approaches. Regardless of the way in which the review of the system is organized, however, the specific control objectives which are appropriate for the company, and the specific control procedures and individual environmental factors which should contribute to achievement of those specific objectives, should be identified and considered.

The fourth conceptual element of an evaluation of system of internal accounting control might be characterized as monitoring compliance with control procedures. Management should have reasonable assurance not only that the system of internal accounting control is appropriately designed, but also that it is functioning as designed. Such a monitoring system is itself an integral part of the overall internal accounting control system of the company.

In additon, employee knowledge that adherence to company policies and proccedures will be monitored is an important element of the control enviornment. Monitoring compliance with control procedures may take place through observation and supervison, as well as through the testing of controls in effect. An objective, effective internal audit function can play an important role in monitoring compliance.

The final conceptual element of an evaluation of a system of internal accounting control might be characterized as determination of reasonable assurance. Determining whether reasonable assurance of achievement of control objectives is provided often will depend in part upon informed estimates and judgments by management, a process which may depend in large measure on adequate documentation of the system of internal accounting control and of management reviews of it.

2. *Documentation.* The Commission continues to believe—as set forth in the proposing release—that appropriate documentation is important to an evaluation of internal accounting control. However, a number of commentators interpreted the Commission's discussion of documentation as effectively prescribing minimum documentation standards. That was not, and is not, the Commission's intent. The appropriate scope and nature of documentation must be determined in the context of the circumstances of each issuer. Those determinations are themselves among the cost-benefit judgments involved in the concept of reasonable assurance.

The overall control environment often will be enhanced by written policies and procedures, formalized reporting responsibilities within the organization, and written descriptions of authority and responsibility. Documentation of specific control objectives and of the control elements in place which should contribute to achieving those objectives may often be necessary to perform an effective review of a system of internal accounting control; documentation of tests of controls in effect may be necessary to determine that the tests were appropriately planned and performed, that the results of the tests were appropriately considered, and that appropriate action was taken by management in response to that consideration.

In addition, because of the judgmental aspects of cost-benefit analyses, documentation of the bases for management's conclusions with respect to reasonable assurance considerations may be particularly important in some instances. As the Commission has repeatedly recognized, no system of internal accounting control can be made fail-safe; the test of "reasonable assurance" does not call for absolute assurance. Nevertheless, management also must recognize that it is typically only after the fact of system failure or circumvention that the question of whether the system provided reasonable assurance will most likely come under scrutiny, and that management would be in the best position to have the business, accounting, and legal judgments previously made by itself and its professional advisors afforded some presumption of regularity and reasonableness if the reasoning of its cost-benefit analysis was supported by full information as evidenced by appropriate and persuasive documentation not only of the system of internal accounting control, but also of management's ongoing review and evaluation of it.

3. *Performance of Ongoing Evaluation Procedures.* Because of the interaction of numerous factors both within and outside the organization which affect the choice of control procedures necessary to obtain reasonable assurance that the broad objectives of internal accounting control have been achieved, control systems are necessarily dynamic. As a result of this dynamic nature, as well as the possibilities that controls may be circumvented or overridden and that compliance with control procedures may deteriorate, evaluation of any system of internal accounting control requires ongoing review of the system and monitoring compliance with control procedures.

The Commission recognizes that many registrants may conclude that maintenance of review and monitoring procedures which will be sufficient to obtain reasonable assurance that the objectives of internal accounting control are achieved does not require performance of all such procedures at all locations in each reporting period. Because of the dynamic nature of internal accounting control and the resultant continuing nature of the evaluation process, the extent and timing of the review and monitoring of a system of internal accounting control are among the cost-benefit judgments involved in the concept of reasonable assurance by which an overall system of internal accounting control must be assessed.

B. Content of Management Statements

1. *Assessment of the Effectiveness of Internal Accounting Control.* The Commission's rule proposal to require a management statement on internal accounting control was based on the premise—articulated by the Cohen Commission, the FEI, and the AICPA's Special Advisory Committee on Reports by Management—that a management report should contain management's *assessment* of the effectiveness of its system of internal accounting control. The rule proposal reflected the Commission's agreement with the conclusion of the Cohen Commission and the FEI that such an assessment is

[43] Report of the Special Advisory Committee on Internal Accounting Control, AICPA, 1979, p. 8.

[44] *See* Report of the Special Advisory Committee on Internal accounting Control, AICPA, 1979, p. 12.

likely to provide useful information to users of financial information. The Commission continues to believe that it would be difficult to conclude that a management statement provides useful information about a company's system of internal accounting control in the absence of a management's opinion on the system's effectiveness.

In proposing to require a statement of management on internal accounting control, the Commission emphasized that the management statement which would be required would extend to reasonable assurances of achievement of the broad objectives of internal accounting control, without regard to traditional notions of materiality. Many commentators, including many who expressed general support for a required statement of management on internal accounting control, suggested that the disclosure value of the management statement would be enhanced if its focus were limited to material matters. They contended that the requirements of the FCPA—which contains no materiality limitation—should not dictate the scope of a disclosure rule; rather, they suggested that the management statement should be limited to material information since disclosure of nonmaterial weaknesses in internal accounting control could be confusing and possibly misleading.

The Commission wishes to reemphasize the fact that the internal accounting control provisions of the FCPA are not limited by a standard of materiality. Those provisions require the design and maintenance of a system of internal accounting control which provides reasonable assurance of achievement of the objectives of internal accounting control. However, the Commission does recognize that certain weaknesses in internal accounting control are more significant than others. Therefore, the Commission believes that, for disclosure purposes, the focus of such a management statement should encompass, at a minimum, the adequacy of the issuer's controls over matters about which shareholders reasonably should be informed.[45]

2. *The Concept of Reasonable Assurance.* A number of commentators apparently assumed that the proposed rules would have required an opinion by management as to whether internal accounting controls were perfect or "fail-safe." As noted above, such a standard of absolute assurance is not required by the FCPA and was not intended by the rule proposal. Rather, the criterion of reasonable assurance contemplates that controls will be devised and maintained to the extent that their benefits (consisting of reductions in the risks of not achieving the objectives of internal accounting control) exceed their costs.

As discussed in the proposing release, the rule proposals were based upon a criterion of "reasonable assurance":

> The concept of reasonable, as opposed to absolute, assurance is incorporated in the proposed rules in recognition that it is not in the interest of shareholders for the cost of internal accounting control to exceed the benefits thereof. Such benefits, and in many cases such costs, are not likely to be precisely quantifiable. Therefore, many decisions on reasonable assurance will necessarily depend in part on estimates and judgments by management which are reasonable under the circumstances.[46]

As the Commission also recognized, decisions on reasonable assurance will necessarily depend in part on estimates and the exercise of informed judgment by management.[47] Consideration of the benefits of internal accounting control generally will involve some degree of estimation of the possible effects and the likelihood of occurrence of various future conditions and events. In addition, the benefits to be considered often may include not only quantitative benefits, such as reduction in exposure to theft of assets, but also qualitative benefits, such as the preservation of the reputation of the company and its management.

For example, the benefits to be considered in connection with evaluating controls intended to prevent bribes and other illegal or questionable payments cannot be measured solely by the amounts of such payments which might be prevented. Rather, the relationship between illegal payments and other questionable activities—whether or not the amounts are significant—and the reputation of the company and the integrity of its management is a significant benefit to be considered.[48]

The Commission recognizes that placing a value on such qualitative factors will almost invariably involve judgments by management. The Commission also believes that it may be appropriate for management statements on internal accounting control to discuss and explain the concept of "reasonable assurance" and its limitations in the context of communicating management's assessment of its system of internal accounting control.

3. *Objectives of Internal Accounting Control and Control Procedures and Techniques.* The proposed management statement on internal accounting control was based upon the broad objectives stated in the FCPA. In this regard, the Commission notes that the Cohen Commission, the AICPA's Special Advisory Committee on Reports by Management, the AICPA's Special Advisory Committee on Internal Accounting Control, and a substantial majority of private publications on internal accounting control, and of voluntary management reports which discuss the objectives of internal accounting control, all paraphrase the same broad objectives which were adopted in the FCPA—often in terms of authorization of transactions, safeguarding of assets, and accounting or preparation of reliable financial statements. Similarly, the Commission encourages registrants to describe the objectives of internal accounting control in terms they believe will be most informative to users of their management statements. It should, however, be emphasized that each of the objectives of internal accounting control is equally important under the FCPA, and that the Commission believes that each should be addressed in management statements.

Control procedures and techniques which will provide reasonable assurances of achievement of the broad objectives of internal accounting control must be determined in the context of the circumstances of each issuer. In this connection, it is important to emphasize that the scope of internal accounting control cannot be defined in terms of types of control procedures or in terms of organizational or functional departments. Factors within an organization which affect the achievement of the objectives of internal accounting control should be considered in evaluating the effectiveness of a system of internal accounting control and may often include factors which also are concerned with what the

[45] This is not, of course, to say that existing reporting requirements under the federal securities laws might not call for mandatory disclosure of internal accounting control difficulties in certain circumstances. For example, under appropriate circumstances, in the course of making required disclosure concerning significant and unexpected occurrences—such as an extraordinary end of year loss or inventory adjustment—the issuer should consider the need to discuss the state of its internal accounting control system in describing and explaining the nature and causes of the otherwise disclosable event. *See also* note 48, *infra.*

[46] Securities Exchange Act Release No. 15772 at 26704, 44 FR.

[47] *See* discussion of documentation, *supra.*

[48] *See generally* Report of the Securities and Exchange Commission on Questionable and Illegal Payments and Practices Submitted to the Committee on Banking, Housing and Urban Affairs, United States Senate (May 12, 1976).

authoritative auditing literature defines as "administrative control." [49]

The AICPA's Special Advisory Committee on Internal Accounting Control emphasized the importance of factors in addition to specific internal accounting control procedures:

> Internal accounting controls cannot be evaluated in a vacuum. Several factors have a significant impact on the selection and effectiveness of a company's accounting control procedures and techniques.
>
> The committee has found the term "internal accounting control environment" to be a convenient way to describe these factors. Some are clearly visible, like a formal corporate conduct policy statement or an internal audit function. Some are intangible, like the competence and integrity of personnel. Some, like organizational structure and the way in which management communicates, enforces and reinforces policy, vary so widely among companies that they can be contrasted more easily than they can be compared.
>
> Although it is difficult to measure the significance of each factor, it is generally possible to make an overall evaluation. The committee believes that an overall evaluation of a company's internal accounting control environment is a necessary prelude to the evaluation of control procedures and techniques.
>
> A poor control environment would make some accounting controls inoperative for all intents and purposes because, for example, individuals would hestiate to challenge a management override of a specific control procedure. On the other hand, a strong control environment, for example, one with tight budgetary controls and an effective internal audit function, can significantly complement specific accounting control proecedures and techniques.[50]

The Commission concurs with the foregoing statements of the Special Advisory Committee regarding the importance of the control environment to the effectiveness of a system of internal accounting control. The Commission also agrees that, in addition to the overall importance of the control environment, individual environmental factors, such as strong budgetary controls and an effective, objective internal audit function, can contribute directly to achievement of internal accounting control objectives and should be considered in evaluating whether reasonable assurances of achievement of such objectives are provided.

[49] *See* Statement on Auditing Standards No. 1, AICPA, Section 320.27, for the definition of "administrative control." That Statement also recognizes, in Section 320.29, that administrative controls and accounting controls are not mutually exclusive.

[50] Report of the Special Advisory Committee on Internal Accounting Control, AICPA, 1979, p. 12. *See generally* pp. 12–19 for a discussion of the control environment.

4. *Period Covered by Management Statement.* The proposed rules would have required that, for periods ending after December 15, 1980 for which audited statements of income are required, the management opinion extend to conditions which existed throughout the period. This parallels the requirement under the FCPA to "devise and *maintain*" an effective system of internal accounting control (emphasis added).

Many commentators, including those who expressed general support for a required statement of management on internal accounting control, recommended that the management opinion be limited to conditions existing as of a point in time, such as the date of the most recent balance sheet or the date the report containing the management statement is issued or filed. They questioned the disclosure value of weaknesses in internal accounting control which had been corrected, maintaining that disclosure of corrected weaknesses would be confusing and possibly misleading.

It is important to distinguish the merits of these comments, as they relate to disclosure, from the necessity to maintain an effective system of internal accounting control. In order both to comply with the FCPA, and as a matter of sound management, effective internal accounting control is essential on an ongoing basis. In addition, ongoing review of the system of internal accounting control and monitoring compliance with control procedures are necessary to the maintenance of an effective system of internal accounting control as well as to provide an adequate basis for any management statement about such effectiveness—whether that statement relates to conditions existing as of a point in time or during a period. Indeed, an integral part of any system of internal accounting control is the capacity and determination to monitor, evaluate, and assess the system on an ongoing basis as well as to take appropriate action concerning it where indicated.

The Commission recognizes, however, that some issuers may prefer, at least initially, to report only as of a point in time. For disclosure purposes, the Commission believes that there is value in providing management statements which address the effectiveness of internal accounting control systems only as of a recent date. Such reporting, moreover, would not share the disincentive to prompt correction of internal accounting control weaknesses, or to making necessary control improvements which come to light as a result of an issuer's ongoing review and monitoring of its control system, that many commentators argued would be presented by the Commission's proposed requirement for a management statement which covered the entire period and discussed all internal accounting control weaknesses which existed during the period, including corrected ones.[51]

5. *Other Matters To Be Discussed in a Management Report.* As noted above, a number of commentators supported the concept of a comprehensive management report—such as that recommended by the Cohen Commission, the FEI, and the AICPA's Special Advisory Committee on Reports by Management—which includes but is not limited to, an assessment of the effectiveness of the system of internal accounting control. They suggested that a comprehensive management report would contain more of the information needed by financial statement users than would the limited statement of management on internal accounting control proposed by the Commission, and that an assessment of the effectiveness of internal accounting control would be more informative when discussed in this broader context.

A major reason for the Commission's determination not to require a statement of management on internal accounting control at this time is to promote innovation and experimentation in disclosure—trends which the Commission has encouraged in various other areas and with respect to disclosure in general. The Commission encourages registrants to provide management reports which include, in addition to an assessment of the effectiveness of internal accounting control, whatever information and discussion of related matters which they believe will make such an assessment most informative.

The Commission notes that the recommendations of the Cohen Commission, the FEI, and the AICPA's Special Advisory Committee on Reports by Management for the content of a management report include, in addition to an assessment of the effectiveness of internal accounting control, many matters which may be very directly related to such effectiveness, including:

- Description of management's responsibility for preparation of financial statements and other reported financial information;
- Description of the work of the company's audit committee of the board of directors;
- Description of the work of the company's internal auditors; and

[51] *See also* note 45, *supra.*

- Description of codes of conduct and assessment of compliance therewith.

Additionally, published management reports have included discussions of other related matters, such as:

- The importance of other elements of the control environment, including the organizational structure, communication of corporate policies and procedures and authority and responsibility, the competence and training of personnel, and accountability for performance and for compliance with policies and procedures;
- The general approach applied in reviewing and evaluating internal accounting controls; and
- The extent to which internal control review and monitoring procedures are performed.

In addition, the Commission encourages registrants to provide comprehensive management reports concerning management responsibilities for accounting, control and financial reporting in general. In the course of such reports, in addition to explaining the respective responsibilities of management and the corporation's independent public accountant in relation to the issuer's financial statements, management should also consider discussing the role while independent accountants play or have played in the internal accounting control system of the issuer.

III. Involvement of Independent Accountants

Proposed Item 7(b) of Regulation S–K would have required that the public statements of management on internal accounting control as of dates after December 15, 1979 and prior to December 16, 1980 include a description of any "material weaknesses" in internal accounting control which had been communicated by the independent accountants of the registrant or its subsidiaries and which had not been corrected and a statement of the reasons why they had not been corrected. Under present auditing standards,[52] the responsibility of an independent public accountant for reporting on the results of the review and evaluation of internal accounting control performed in connection with an examination of financial statements is limited to reporting to management and the board of directors or audit committee "material weaknesses" which came to the accountant's attention.[53]

This approach was to be required only for the initial year since it was also proposed that an examination and public report by an independent public accountant of the statement of management on internal accounting control would be required for periods ending after December 15, 1980. That latter proposal is, of course, also being withdrawn by the Commission at this time.

The Commission's decision to withdraw, at this time, the proposals for such management descriptions of auditor-communicated material weaknesses and for an examiniation and public report by an independent public accountant of the statement of management on internal accounting control is based in part on the extent of auditors' present involvement with internal accounting control in connection with audits of financial statements—through both their responsibilities under Statement on Auditing Standards No. 20 to report "material weaknesses" in internal accounting control and their responsibilities under Statement on Auditing Standards No. 8[54] to read other information in a document containing audited financial statements and to inform their clients of any such information which they believe is a material inconsistency or material misstatement of fact—and on the Commission's expectation of enhanced voluntary or private-sector initiated auditor association with internal accounting control in the near future.

A. Existing Auditor Involvement

SAS No. 20 presently requires independent public accountants to communicate to management and any audit committee "material weaknesses" in the issuer's internal accounting control system which come to their attention in the course of their audit of the issuer's financial statements. Proposed Item 7(b) would have required management to describe publicly such material weaknesses which were communicated to it and which remained uncorrected.

Moreover, under SAS No. 8, auditors are presently required to read, among other things, a managment statement or management report included in a document containing audited financial statements and to inform the registrant of anything therein which the auditor concludes is a material inconsistency or material misstatement of fact.[55] Where a management statement includes an assessment of the effectiveness of internal accounting control, the auditor is required to inform the registrant of any information of which he is aware—including weaknesses in internal accounting control—which would render such information in the management statement materially misstated.[56] Similarly, when a management statement includes a discusison of matters in support of or in addition to management's assessment of the effectiveness of internal accounting controls, the auditor is again required to inform the registrant of any material inconsistencies or material misstatements of fact contained therein. In the event that the issuer fails to correct such misstatements when informed of them, SAS No. 8 requires the auditor to take appropriate steps to ensure disclosure, or, failing that, to consider other action, including withdrawing from the engagement.[57]

B. Examinations by Independent Public Accountants

Proposed Item 7(c) of Regulation S-K would have required that, for periods ending after December 15, 1980, the statement of management on internal accounting control be examined and reported on by an independent public accountant. Proposed Item 7(c) specified that the examination be sufficient to enable the independent public accountant to express an opinion as to (1) whether the representations of management in response to proposed Item 7(a) are consistent with the results of management's evaluation of the systems of internal accounting control, and (2) whether such management

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[52] *See* Statement on Auditing Standards on No. 20, AICPA.

[53] A "material weakness" is defined in Statement on Auditing Standards No. 1, AICPA, Section 320.68, as

> [a] condition in which the auditor believes the prescribed procedures or the degree of compliance with them does not provide reasonable assurance that errors or irregularities in amounts that would be material in the financial statements being audited would be prevented or detected within a timely period by employees in the normal course of performing their assigned functions.

The Auditing Standards Board has proposed (*see* note 38, *supra*) to amend this definition, to read as follows:

> A material weakness in internal accounting control is a condition in which the specific control procedures or the degree of compliance with them does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

[54] Statement on Auditing Standards No. 8, AICPA.

[55] Certain commentators suggested that it is not clear that Statement on Auditing Standards No. 8 would apply to an *ommission* (as opposed to a misstatement) of disclosure of an internal accounting control weakness in a statement of management on internal accounting control. The Commission encourages the Auditing Standards Board to take whatever action is necessary to make clear that the provisions of the Statement are applicable to such omissions.

[56] *See* notes 45 and 48, *supra*, for guidance in determining whether or not a particular fact is material.

[57] Auditor withdrawal from an engagement would, of course, call for appropriate disclosure by the issuer on Form 8–K.

representations are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the registrant's financial statements. The proposed examination by an independent public accountant of the statement of management on internal accounting control would, therefore, have required expansion of the independent public accountant's present responsibilities with respect to internal accounting control.

The Commission indicated in the proposed release that it was aware that requiring such an expansion of responsibilities at this time would probably result in additional costs to registrants, but that it believed that any additional costs of the proposed examination by an independent public accountant would be outweighted by the increased reliability of the statement of management which would result from such examination. Since the benefits of the proposed examination by an independent public accountant are not subject to quantification, and the measurement of costs includes many variables which are highly uncertain, the Commission specifically requested comments on the costs and benefits involved, including possible alternatives to the proposed scope of such examination.

Commentators were almost unanimously opposed to the requirement contained in proposed Item 7(c). Virtually all who provided specific comments believed that the costs of requiring the proposed examination by an independent public accountant at this time would be very substantial and would far exceed the possible benefits of such a requirement. Many of these commentators maintained that, although the auditor's purpose in reviewing and evaluating internal accounting control in connection with an examination of financial statements is not to determine whether the broad objectives of internal accounting control have been achieved, but rather to form a basis for determinating the scope of such examination, registrants' auditors are typically very knowledgeable about the effectiveness of registrants' systems of internal accounting control. They also maintained that, based on that knowledge and the auditor's existing responsibilities under SAS No. 20 [58] and under SAS No. 8,[59] the incremental benefits of the proposed examination would not be significant. Similarly, many suggested that the additional costs which would result from the proposed examination, while resulting in little or no benefit, would be substantial. Specifically, they maintained that significant costs would result from the necessity to review management's procedures for reviewing, monitoring, and evaluating the system of internal accounting control, and the results thereof, as they relate to nonmaterial matters, and from the necessity to duplicate review and testing performed by the registrant.

Finally, a number of commentators maintained that, considering the subjective nature of the benefits of an examination by an independent accountant of the statement of management on internal accounting control, the present lack of any empirical base for estimating the costs thereof, and the current consideration by the AICPA's Auditing Standards Board of standards for voluntary public reports by independent accountants on internal accounting control, consideration of a requirement for an examination is premature. They argued for deferral of Commission action pending evaluation of the results of voluntary engagements and private-sector initiatives.

The Commission continues to believe, however, that significant involvement of independent accountants in the process of evaluating and reporting on internal accounting control systems is important. The Commission's decision not to require, at this time, such public auditor involvement has been influenced by commentator indications that the costs of such involvement would be substantial and would outweight the benefits of reliability and user confidence which the Commission cited as possible justification for such a requirement.

The Commission also believes, however, that monitoring over a three-year period of private-sector initiatives and voluntary auditing engagements to evaluate and publicly report on systems of internal accounting control would better enable it to assess, at that time, both the costs and benefits of such examinations, as well as the need for a Commission requirement concerning such involvement. As presented by the commentators, the costs of auditor examinations of and reports on issuer systems of internal accounting control are presently uncertain but substantial. Adoption by the Auditing Standards Board of its proposed Statement on Auditing Standards on "Reporting on Internal Accounting Control" [60] should, however, provide a framework in which the Commission can monitor and evaluate not only the voluntary efforts of registrants to engage independent accountants to examine and publicly report on their systems of internal accounting control, but also the costs of such examinations. Such an ongoing Commission effort could, thus, provide it with more reliable current cost data reflecting, over time, both the developing theory and practice of internal accounting control, as well as the growing auditor experience with examinations of internal accounting control systems. Similarly, to the extent that future system failures evidence the possibility that benfits may accrue from enhanced auditor involvement over and above those which were presently anticipated by commentators, the Commission would have a further basis on which to reassess its decision on independent auditor involvement in light of the then indicated need for additional measures to ensure the credibility and assurances intended to be provided by issuers' systems of internal accounting control. Accordingly, the Commission believes that its monitoring effort will make it possible for it to revisit this issue on the basis of greater certainty concerning costs and benefits than that which commentators asserted exists today, and the Commission can be expected to reevaluate its decision concerning independent auditor involvement with internal accounting control systems in light of the extent to which private-sector initiatives and voluntary auditor engagements have satisfied those Commission concerns which presently exist or which may exist at that time.

IV. Conclusion and Request for Further Comment

The Commission is taking today's action in response to commentators' encouraging assurances of developing voluntary and private-sector initiatives concerning management statements on internal accounting control and enhanced auditor involvement with such statements. Indeed, the Commission continues to believe that management disclosure concerning, and auditor involvement with issuers' systems of internal accounting control have important values that can be achieved without undue cost or other burdens.

Accordingly, in withdrawing these rule proposals at this time, the Commission stresses that it will monitor carefully voluntary and private-sector developments in this area, and that it fully expects those initiatives to continue. Based upon the assurances of further voluntary initiatives communicated by so many commentators and others, the

[58] *See* notes 52 and 53, *supra.*

[59] *See* note 54, *supra.*

[60] *See* note 38, *supra.*

commission expects that significant progress will be made in 1980 and over the next couple of years, and it presently intends to formally revisit these questions by the spring of 1982 based upon three years of analysis of such voluntary efforts.

In that regard, the Commission hereby invites addtional public comment on the issues discussed in this withdrawing release. In order to supplement the Commission's own monitoring and analysis of the voluntary progress being made and the need for Commission action in this area, the Commission specifically encourages commentators to provide it with any additional views and data which would be of use to the Commission over the course of the monitoring period. In addition, the Commission is also interested in hearing from issuers, accountants, and their counsel not only about questions relating to management statements on internal accounting control and auditor involvement with such statements, but also about the guidance which the Commission has set forth in this release concerning the design, implementation and monitoring of internal accounting control systems, including the need for documentation, the importance of a proper control environment, and the concept of reasonable assurance, as well as data on actual costs incurred by issuers.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 6, 1980.

[FR Doc. 17971 Filed 6-12-80; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 240 and 249

[Release No. 34-16866; File No. S7-837]

Consideration of a System of Classifying Smaller Issuers for Purposes of Modifying Certain Reporting and Other Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is considering establishing classes of small issuers which might have different reporting and other obligations under the Securities Exchange Act of 1934 (the "Exchange Act"). In connection therewith, certain statistical data with respect to those companies which file reports with the Commission pursuant to Sections 13 and 15(d) thereof, is also provided. In addition to seeking guidance generally on the desirability of implementing a classification system, the Commission is also requesting commentators to focus on certain specified questions. The Commission intends to consider these comments in connection with any proposal of possible amendments to rules under the Exchange Act.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: All communications on the matters discussed in the release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-837 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L St., N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Paula Chester (202/272-2644), Office of Small Business Policy, Division of Corporation Finance, and for further information regarding the application of empirical data and analysis, contact Hugh Haworth (202/523-5631), Directorate of Economic and Policy Analysis, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it is considering the feasibility of classifying companies under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a *et seq.* (1976 and Supp. 1 1977)] so that defined classes of smaller issuers might have modified reporting and other requirements. This release represents a further initiative by the Commission to identify and remove impedients to small business to the greatest extent consistent with the public interest and protection of investors. It raises general questions about the desirability or feasibility of a classification system and the criteria which could be used in grouping companies. Any classification system would begin with a class of the smallest reporting companies which is the principal focus of this release. Commentators are asked to recommend the specific criteria to be used to define this level of issuers and which reporting obligations might be modified for them.

The Commission has developed a statistical profile of companies that are subject to the registration and reporting provisions of the Exchange Act, pursuant to Sections 12 and 15(d) thereof. Since this data will be used by the Commission to develop possible classification criteria, it is being released to the public for their information and to assist them in responding to the questions raised in this release. The Commission is not at this time proposing any amendments to its rules but rather wishes to elicit comments and suggestions to assist the Office of Small Business Policy in the Division of Corporation Finance in the development of future rulemaking proposals.

A. Background

The principal thrust of the disclosure provisions of the Exchange Act is to ensure the continuous public availability of adequate information about companies with publicly traded securities. Prior to 1964, the disclosure provisions of the Exchange Act generally applied only to issuers having securities listed and traded on a national exchange. Companies whose securities had not been registered under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a *et seq.* (1976)] but which were traded in the over-the-counter market were not subject to the registration and reporting requirements of Sections 12 and 13.[1]

The scope of the registration and reporting provisions of the Exchange Act was expanded by the Securities Acts Amendments of 1964 (the "1964 Amendments")[2] to include all issuers presumed to be the subject of active investor interest in the over-the-counter market.[3] Specifically, the 1964 Amendments extended the registration provisions of Section 12 to issuers of securities with both total assets in excess of $1 million and a class of equity securities held of record by 500 or more persons. Once registered,[4] Section 13 of the Exchange Act requires the issuer to file the annual, quarterly and current reports prescribed by the Commission to keep current the information contained

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[1] Prior to 1964, Section 15(d) of the Exchange Act did provide that all registration statements filed under the Securities Act contain an undertaking by the registrant to comply with the reporting requirements of Section 13. However, the undertaking became operative and the reports were required only when the value of the securities offered plus the value of all other outstanding securities of the same class equalled at least $2 million. The duty to file such reports was suspended if, and for as long as, the value of the securities outstanding was reduced to less than $1 million or the issuer had become subject to an equivalent reporting requirement. Consequently, investor protection in the over-the-counter market was, at best, fragmentary.

[2] 78 Stat. 565 (U.S. Code Cong. & Ad. News 2798 (1964))

[3] Report of the Special Study of Securities Markets of the Securities and Exchange Commission, House Document No. 95, pt. 3, House Committee on Interstate and Foreign Commerce 88th Cong., 1st Sess. (1963), at 60-62.

[4] The customary form for registering a class of securities under the Exchange Act is Form 10 (17 CFR 249.210).

in the issuer's registration statement. The Exchange Act also requires the issuer to make and keep accurate books and records and to devise and maintain a system of internal accounting controls in accordance with Section 13(b), and to comply with the proxy or information statement and tender offer requirements of Section 14. In addition, all officers, directors and 10 percent shareholders of registered issuers must file certain ownership reports in accordance with Section 16(a) and are subject to the short-swing trading provisions of Section 16(b). Moreover, there are several other obligations which are imposed, in certain circumstances, upon persons owning, acquiring, or exercising investment discretion with respect to securities which are registered under Section 12.

Section 15(d) of the Exchange Act was also amended in 1964 to provide that each issuer that files a registration statement which is declared effective pursuant to the Securities Act must also file with the Commission such supplementary, periodic and current reports as may be required with respect to a security registered pursuant to Section 12 of the Exchange Act for the fiscal year in which the registration statement becomes effective. The duty to file reports continues for any subsequent fiscal year unless the securities of each class to which the registration statement relates are held by less than 300 persons at the beginning of the issuer's fiscal year.

As a general matter, issuers required to file periodic reports with the Commission, whether by reason of their registration under Section 12 or pursuant to Section 15(d) of the Exchange Act, are now required to provide essentially the same type and quality of information regardless of their size. Similarly, the present proxy solicitation and information statement provisions do not make distinctions among issuers based on size.

Many critics have noted that the cost of compliance with Exchange Act reporting requirements is not only substantial in absolute amounts but is relatively greater for smaller companies than for larger issuers.[5] Moreover, the benefits derived by smaller companies from such reporting requirements may be limited. A survey conducted in 1977 indicates that individual investors rely primarily upon the annual report to shareholders for information about a company rather than on reports filed with the Commission.[6] While there is evidence to indicate that professional analysts are the principal users of Form 10–K and 10–Q reports,[7] securities of smaller issuers are rarely followed by such analysts.[8] The principal reason for analysts' failure to follow these securities is the lack of interest in small companies on the part of professional investors. Such factors as lack of liquidity, lack of independent research, price volatility, and the "prudent man" standard under the Employee Retirement Income Security Act are usually cited by institutions as primary reasons for not investing in these companies.[9]

The Advisory Committee Report [10] and witnesses at the public hearings held by the Commission in April and May of 1978 concerning the impact of its rules and regulations on small business cited a number of factors suggesting that a reduction in reporting under the federal securities laws for small businesses may be warranted. Following these hearings, the Commission has taken several steps to modify requirements under the Securities Act and the Trust Indenture Act of 1939 [15 U.S.C., 77aaa, et seq. (1976)].[11]

The Commission, however, recognizes the careful balancing that it must undertake before any specific rule proposals to modify certain reporting or other obligations under the Exchange Act can be adopted. The need by investors for mandated disclosure may be as great or even greater for small companies than for large ones.[12] In addition, a reduction in the periodic reports of smaller issuers might result in a decline in investor interest, thereby imparing their ability to raise capital. On the other hand, to the extent that the reporting requirements are the same for all issuers regardless of size, these requirements impose proportionately higher time and expense burdens on smaller issuers than large ones and the ultimate weight of these burdens falls on the shareholders of such companies.

The Commission as well as the commentators have realized that before any reasonable basis for classifying issuers under the Exchange Act could be proposed, it was essential to have more information about the nature and number of issues currently reporting thereunder. Accordingly, the Office of Small Business Policy in the Division of Corporation Finance requested the Commission's Directorate of Economic and Policy Analysis to prepare a profile of all companies that are currently required to file reports with the Commission pursuant to Sections 13 or 15(d).

B. Classification of Selected Issuers

Issuers subject to the reporting requirements of Sections 13 and 15(d) include: (1) issuers registered with a national securities exchange pursuant to Section 12(b) ("12(b) Issuers"); (2) issuers registered with the Commission pursuant to Section 12(g) ("12(g)

[5] Report of the Advisory Committee on Corporate Disclosure, to the Securities and Exchange Commission, (hereinafter cited as the "Advisory Committee Report"), Committee Print 95–29, House Committee on Interstate and Foreign Commerce 95th Cong., 1st Sess. (1977) at 28; Summary of Comments Relating to Small Business Hearings and Proposed Form S–18, Division of Corporation Finance, Securities and Exchange Commission, File No. S7–734, question 12 at 71.

[6] The Advisory Committee Report, *supra* Note 5, 290–291.

[7] Id. at 62–63.

[8] At the request of the Advisory Committee on Corporate Disclosure, the Financial Analysts Federation ("FAF") conducted a survey of research directors to determine whether all publicly held companies are the focus of fundamental security analysis. The FAF's results indicate that smaller companies do not receive the continued or widespread scrutiny of security analysis. *See* the Advisory Committee Report, *supra* Note 5, at 39–42.

[9] *See* Report of the Joint Industry/Government Committee on Small Business Financing, National Association of Securities Dealers, Inc. (May 22, 1979), at 15–16.

[10] The Advisory Committee Report, *supra* note 5, at 511.

[11] The Commission has responded to a number of the concerns expressed by several commentators that some of the requirements imposed by the federal securities laws may not be justified as applied to small business. A summary of the Commission actions is set forth in Securities Act Release No. 6049 (April 3, 1979) [44 FR 21562]. Subsequently, in Securities Act Release No. 6075 (June 1, 1979) [44 FR 33362], the Commission authorized the use of a preliminary offering circular in connection with an underwritten offering pursuant to Regulation A [17 CFR 230.251–264]. In Securities Act Release No. 6136 (October 16, 1979) [44 FR 61941], the Commission announced it would not take enforcement action if an issuer fails to qualify under the applicable provisions of the Trust Indenture Act of 1939 the trust indenture for a public debt of $1,500,000 or less of securities on Form S–18 [17 CFR 239.28]. In Securities Act Release No. 6180 (January 10, 1980) [45 FR 6362] the Commission adopted Rule 242 which allows certain domestic and Canadian corporate issuers to sell up to $2,000,000 per issue of their securities in any six-month period to an unlimited number of "accredited persons," defined as certain specified institutions, purchasers of $100,000 or more of securities, and executive officers and directors of the issuer, and to 35 other purchasers. Most recently the Commission transmitted to Congress legislative recommendations to increase the maximum aggregate amount of debt securities that may be exempt from the Trust Indenture Act of 1939 pursuant to Sections 304(a)(8) and 304(a)(9) thereof. In addition, the Commission recommended that it be granted authority pursuant to its rules and regulations to establish from time to time the appropriate amount of debt securities under the revised ceiling amounts that may be partially or totally exempt from the Trust Indenture Act.

[12] In their recent publication, *The Aggressive Conservative Investor* (New York: Random House, 1979), two noted investment analysts, Martin J. Whitman and Martin Shubik, made the following observations with respect to the Commission's mandated disclosure policies:

* * * We suggest that the disclosure scheme built up, especially since 1964, is now extraordinarily good and extraordinarily valuable to all sorts of security holders . . . (p. 15)

Issuers"); and (3) issuers subject to Section 15(d) reporting requirements ("15(d) issuers").

Tables 1 through 5 present data concerning issuers filing periodic disclosure reports with the Commission pursuant to Sections 13 and 15(d) of the Exchange Act. The population of Exchange Act issuers for purposes of this anaylsis is composed of all filing entities which are listed in the *SEC Corporation Index* (the "Index") dated March 30, 1979, and which also meet the following two requirements: (1) the filing entity is not an employee thrift or stock purchase program, an investment company, or a foreign issuer [13] and (2) the entity has on file with the Commission a Form 10–K report covering a fiscal year ending between July 1, 1978 and June 30, 1979 ("1978–79 Fiscal Year").

A sampling procedure was followed to construct Table 1.[14] The estimate of 8,891 selected 12(b), 12(g) and 15(d) issuers presented in Table 1 is based on the proportions of the sample entries in the Index found to be in compliance with the choice criteria listed above. The data in Table 1, which sets forth the percent of all such issuers falling into each asset category, is accurate to within 2.5 percentage points at the 90% confidence level.

Tables 2 through 4 present 7 financial and operational statistical items calculated for Section 12(b), 12(g) and 15(d) Issuers, respectively.[15] Each table is divided into nine asset size categories, each presenting statistics for issuers based upon total assets in the 1978–79 Fiscal Year. The statistical items shown for the 1978–79 Fiscal Year are total assets, number of shareholders of record, annual common share trading volume, number of employees, total revenues (gross sales), net income (after taxes and any extraordinary gain or loss), and market value of common stock outstanding.[16] The descriptive statistics shown in each table include, for each of the nine asset size categories, the mean, median, minimum and maximum values. The number of observations is the count of issuers in each category for which the information is included. In those categories where there are less than five obervations, only mediams appear in the tables.[17]

Table 5 provides a summary of the median statistics for each characteristic in each asset size category appearing in Tables 2 through 4. To simplify presentation, the number of asset groupings was reduced. The figures shown in Table 5 are weighted averages of the figures in Tables 2 through 4 based on weight derived from Table 1.[18]

[13] Such determination is made by the Commission's Office of Reports and Information Services and appears in the "Foreign government and Private Issuers" section of the Index.

[14] Initially, 953 random selections from the total of nearly 14,750 entries in the Index were made to produce a statistically sound sample of issuers. From this initial sample, 289 issuers in the Index were identified as inactive filers. Of the remaining 664, 196 issuers were eliminated because they were employee thrift or stock purchase programs, investment companies or foreign issuers. After the elimination of an additional 89 issuers for which there were no records of the appropriate Form 10–K's having been filed, there remained 379 issuers available for preparing population estimates.

[15] The sample used in constructing Table 1 was modified to create Tables 2 through 4. The modification was required because certain categories (for example, Section 12(b) Issuers with assets under $5 million) contained too few sample issuers to estimate reasonably the characteristics of issuers within each category. In order to augment the number of issuers in categories with very few members in the random sample, a special search was conducted. In 15 of the 27 asset categories presented in Tables 2 through 4, at least 12 representatives were found.

[16] The source of specific data is as follows. Total assets, number of shareholders of record, number of employees, total revenues and net income were collected from the issuer's Form 10–K reports. The annual trading volume and common stock price data for the exchange-listed issuers were found in *Bank & Quotation Record*, Volume 52, Number 1, January 1979. The volume and price data for National Association of Securities Dealers Automated Quotations System ("NASDAQ")-quoted stocks was taken from the *NASDAQ–OTC Securities Fact Book, 1978*. Trading share volume for other Over-The-Counter ("OTC") stocks was unavailable. The market value of common stock is the product of the closing transaction price or bid for December 29, 1978, and the number of shares outstanding, as reported in the filed Form 10–K report or Form 10–Q report, whichever was filed for a period nearest year-end 1978. Prices used for OTC stocks other than NASDAQ-quoted stocks were the median of bid prices found in the *National Daily Quotation Service, Stock Section*, December 29, 1978.

[17] These gaps in the data are principally due to the lack of information on annual trading volume or price quotations as of the end of 1978. In the few cases where the only class of security held by the public was debt, annual share volume and market value of shares outstanding were not applicable.

[18] Differences in the sample used to construct Table 1 and that used for Tables 2 through 4 accunt for the difference in the total assets median statistics shown in Tables 1 and 5.

Table 1.—*Classification by Total Asset Size of Selected 12(b), 12(g), and 15(d) Issuers*

[Estimates based on representative sample (dollars in millions)]

Total assets	Number of issues [1]							
	12(b) Issuers		12(g) Issuers		15(d) Issuers		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Less than $1	([2])	([2])	81	2	128	14	209	2
$1 to $2	([2])	([2])	365	8	90	9	455	5
$2 to $3	([2])	([2])	325	7	51	5	376	4
$3 to $5	33	1	365	8	90	9	488	5
$5 to $10	100	3	812	17	102	11	1,014	11
$10 to $50	654	21	1,705	35	230	24	2,589	29
$50 to $100	318	10	528	11	64	7	910	10
$100 to $1,000	1,222	39	487	10	166	18	1,875	21
$1,000 and over	770	25	162	3	26	3	958	11
Totals	3,097	100	4,830	100	947	100	8,874	100
Average total assets:								
Mean	$957		$114		$96		$407	
Median	$230		$14		$12		$47	

[1] The number of issuers in each asset range was derived from a randomly chosen sample of all issuers filing under the Exchange Act as reported in the *SEC Corporation Index*, March 30, 1979. Excluded are issuers which are employee thrift or stock purchase programs, investment companies, foreign issuers appearing in the "Foreign Government and Foreign Private Issuers" section of the *SEC Corporation Index*, or those for which there is no record of a Form 10–K report having been filed for a fiscal year ending between July 1, 1978 and June 30, 1979.

[2] The number of issuers in this cell is less than 0.5 percent of the total of 379 active issuers in the sample.

Sources: *SEC Corporation Index*, March 30, 1979 and Form 10–K reports filed with the Securities and Exchange Commission covering the fiscal year ending July 1, 1978 through June 30, 1979. Directorate of Economic and Policy Research, Securities and Exchange Commission.

Table 2.—*Characteristics of 12(b) Issuers by Size of Total Assets* [1]

[Dollars in thousands]

	Total assets	Number of shareholders	Annual trading volume	Number of employees	Total revenue	Net income	Market value of shares outstanding
Issuers Having Total Assets Less Than $1 Million							
Observations	$1	1	1,000	1	$0	$0	$1
Mean	(2)	(2)	(2)	(2)			(2)
Median	655	945	5,000	20			8,533
Minimum	(2)	(2)	(2)	(2)			(2)
Maximum	(2)	(2)	(2)	(2)			(2)
Issuers Having Total Assets From $1 to $2 Million							
Observations	$7	7	4,000	7	$7	$7	$7
Mean	1,438	1,155	(2)	149	3,103	−2	1,142
Median	1,299	971	26,000	80	2,264	21	648
Minimum	1,031	160	(2)	3	85	−784	135
Maximum	1,981	3,700	(2)	451	8,621	613	4,385
Issuers Having Total Assets From $2 to $3 Million							
Observations	$6	6	5,000	6	$6	$6	$6
Mean	2,475	627	1,613,000	118	3,309	9	834
Median	2,573	560	176,000	52	1,903	7	578
Minimum	2,035	323	9,000	7	408	−427	286
Maximum	2,924	1,112	7,657,000	475	8,713	284	1,780
Issuers having Total Assets From $3 to $5 million							
Observations	$7	7	7,000	7	$7	$7	$7
Mean	3,494	1,261	377,000	173	4,219	201	4,438
Median	3,502	800	130,000	106	2,298	151	3,677
Minimum	3,098	294	15,000	8	326	−242	1,270
Maximum	3,701	3,842	1,091,000	482	11,346	649	8,500
Issuers Having Total Assets From $5 to $10 Million							
Observations	$19	19	18,000	19	$19	$19	$19
Mean	7,642	1,626	271,000	345	13,242	380	3,241
Median	7,668	1,266	223,000	281	12,236	489	2,848
Minimum	6,025	483	5,000	60	5,841	−602	1,031
Maximum	9,723	5,400	937,000	625	23,936	948	5,260
Issuers Having Total Assets From $10 to $50 Million							
Observations	$19	19	19,000	19	$19	$19	$19
Mean	31,061	2,894	40,000	1,259	67,169	1,691	12,797
Median	31,610	1,778	29,000	1,062	48,454	1,753	11,137
Minimum	10,220	538	3,000	163	14,625	−3,785	2,527
Maximum	49,991	9,360	186,000	3,750	376,144	6,165	39,707
Issuers Having Total Assets From $50 to $100 Million							
Observations	$16	16	15,000	16	$16	$16	$15
Mean	74,643	4,145	1,236,000	21,132	104,570	3,355	23,728
Median	77,753	3,730	803,000	1,375	96,429	2,905	16,343
Minimum	50,207	15	132,000	0	5,054	−418	2,545
Maximum	94,590	9,913	4,579,000	6,015	331,341	9,376	84,189
Issuers Having Total Assets From $100 Million to $1 Billion							
Observations	$18	18	15,000	18	$18	$18	$16
Mean	371,229	6,356	2,762,000	7,340	544,368	22,204	169,785
Median	336,742	5,563	1,293,000	4,338	347,665	17,516	103,626
Minimum	103,580	1	498,000	440	31,911	−8,035	15,920
Maximum	958,138	19,072	0,603,000	35,200	3,516,352	56,522	596,505
Issuers Having Total Assets From $1 Billion							
Observations	$18	18	16,000	17	$18	$18	$16
Mean	2,838,293	54,486	9,869,000	32,157	2,901,090	177,646	1,621,850
Median	2,475,530	45,776	7,038,000	38,922	1,949,719	128,697	871,353
Minimum	1,228,225	1	417,000	1,650	80,608	16,079	30,800
Maximum	5,577,900	155,320	30,304,000	104,736	8,099,687	511,668	7,345,461

[1] Data for fiscal years ending between July 1, 1978, and June 30, 1979.

[2] Statistics, other than medians, which are based on less than five observations are not presented.

Sources: Form 10-K Reports and *Bank & Quotation Record*, Vol. 52, No. 1, January 1979.

Table 3.—*Characteristics of 12(g) Issuers by Size of Total Assets* [1]

[Dollars in thousands]

	Total assets	Number of shareholders	Annual trading volume	Number of employees	Total revenue	Net income	Market value of shares outstanding
Issuers Having Total Assets Less Than $1 Million							
Observations	$20	20	3,000	18	$20	$20	$16
Mean	458	1,942	([2])	93	555	−184	2,375
Median	466	1,360	169,000	13	264	−64	562
Minimum	117	217	([2])	0	8	−2,705	228
Maximum	980	14,400	([2])	1,200	2,047	257	8,734
Issuers Having Total Assets From $1 to $2 Million							
Observations	$20	20	6,000	19	$20	$20	$13
Mean	1,528	1,020	4,635,000	52	2,387	40	2,596
Median	1,556	967	370,000	38	1,842	69	731
Minimum	1,074	164	29,000	2	0	−525	5
Maximum	1,968	3,700	25,942,000	333	6,142	610	10,241
Issuers Having Total Assets From $2 to $3 Million							
Observations	$11	11	3,000	$9	$11	$11	$9
Mean	2,464	1,371	([2])	43	2,263	−33	1,571
Median	2,398	545	58,000	43	2,348	54	938
Minimum	2,070	137	([2])	5	28	−522	304
Maximum	2,871	6,866	([2])	157	5,623	232	4,963
Issuers Having Total Assets From $3 to $5 Million							
Observations	$15	15	4,000	14	$15	$15	$10
Mean	4,013	1,210	([2])	419	8,173	101	1,503
Median	3,590	675	323,000	97	8,161	262	1,233
Minimum	3,055	321	([2])	20	127	−1,343	259
Maximum	4,989	5,364	([2])	3,000	19,684	763	4,005
Issuers Having Total Assets From $5 to $10 Million							
Observations	$20	20	10,000	20	$20	$20	$19
Mean	6,698	1,001	625,000	218	10,632	372	3,825
Median	6,348	768	526,000	159	9,623	416	2,760
Minimum	5,158	174	23,000	9	2,393	−1,409	221
Maximum	9,312	3,000	1,601,000	900	19,892	1,025	18,872
Issuers Having Total Assets From $10 to $50 Million							
Observations	$12	12	10,000	12	$12	$12	$12
Mean	20,976	1,775	909,000	682	31,504	1,014	11,632
Median	17,906	777	262,000	700	25,890	1,450	7,928
Minimum	11,165	344	26,000	14	1,565	−3,839	693
Maximum	39,577	7,355	5,417,000	1,400	69,461	3,053	44,371
Issuers Having Total Assets From $50 to $100 Million							
Observations	$12	12	11,000	11	$12	$12	$11
Mean	65,970	2,270	1,211,000	2,175	120,498	4,534	31,177
Median	64,739	1,671	727,000	1,925	71,015	3,579	33,600
Minimum	50,647	625	126,000	103	10,580	−1,547	5,093
Maximum	91,914	7,819	3,110,000	4,907	458,225	9,052	69,768
Issuers Having Total Assets From $100 Million to $1 Billion							
Observations	$13	13	9,000	13	$13	$13	$11
Mean	235,325	6,487	5,072,000	4,272	170,900	16,080	112,956
Median	224,651	2,114	933,000	675	73,651	7,618	40,576
Minimum	100,124	559	38,000	145	13,143	319	10,226
Maximum	496,775	39,548	24,165,000	23,000	985,171	94,607	506,088
Issuers Having Total Assets From $1 Billion							
Observations	$7	7	7,000	7	$7	$7	$7
Mean	2,355,149	6,298	1,746,000	3,364	308,357	27,807	179,010
Median	1,616,241	5,800	819,000	2,100	109,380	11,351	80,268
Minimum	1,105,207	2,247	44,000	1,086	73,736	5,200	45,400
Maximum	5,113,127	10,334	6,412,000	7,811	1,081,743	93,099	403,260

[1] Data for fiscal years ending between July 1, 1978, and June 30, 1979.

[2] Statistics, other than medians, which are based on less than five observations are not presented.

Sources: Form 10-K Reports; *Bank and Quotation Record, op. cit.; NASDAQ-OTC Securities Fact Book, 1978;* and *National Daily Quotation Service, Stock Section,* December 29, 1978.

Table 4.—*Characteristics of 15(d) Issuers by Size of Total Assets* [1]

[Dollars in thousands]

	Total assets	Number of shareholders	Annual trading volume	Number of employees	Total revenue	Net income	Market value of shares outstanding
Issuers Having Total Assets Less Than $1 Million							
Observations	$16	16	0	15	$16	$16	$4
Mean	311	699	.....	19	487	−32	(3)
Median	297	420	.....	10	86	−28	241
Minimum	11	12	.....	0	0	−286	(3)
Maximum	732	4,365	.....	110	2,398	334	(3)
Issuers Having Total Assets From $1 to $2 Million							
Observations	$7	7	1,000	7	$7	$7	$2
Mean	1,578	469	(3)	19	1,150	−703	(3)
Median	1,658	400	202,000	7	725	93	8,328
Minimum	1,143	30	(3)	0	17	−2,257	(3)
Maximum	1,909	776	(3)	65	3,771	373	(3)
Issuers Having Total Assets From $2 to $3 Million							
Observations	$4	3	0	4	$4	$4	$0
Mean	(3)	(3)	.....	(3)	(3)	(3)	.....
Median	2,812	357	.....	0	290	−1,460	.....
Minimum	(3)	(3)	.....	(3)	(3)	(3)	.....
Maximum	(3)	(3)	.....	(3)	(3)	(3)	.....
Issuers Having Total Assets From $3 to $5 Million							
Observations	$7	7	0	7	$7	$7	$4
Mean	4,178	606	.....	30	5,855	−684	((3))
Median	4,455	399	.....	5	3,731	110	558
Minimum	3,148	250	.....	0	52	−5,931	((3))
Maximum	4,698	1,351	.....	98	23,374	2,279	((3))
Issuers Having Total Assets From $5 to $10 Million							
Observations	$8	8	1,000	4	$8	$8	$2
Mean	7,762	406	((3))	((3))	7,972	1,356	((3))
Median	7,578	419	180,000	((3))	3,166	90	1,572
Minimum	6,515	1	((3))	((3))	409	−2,246	((3))
Maximum	9,334	800	((3))	((3))	28,881	12,194	((3))
Issuers Having Total Assets From $10 to $50 Million							
Observations	$17	15	0	11	$17	$17	$6
Mean	21,410	1,177	.....	1,053	16,241	821	7,583
Median	19,475	324	.....	280	11,067	669	4,596
Minimum	10,945	1	.....	54	165	−1,029	626
Maximum	45,419	9,975	.....	4,750	95,645	2,276	25,163
Issuers Having Total Assets From $50 to $100 Million							
Observations	$6	6	2,000	5	$6	$6	$4
Mean	63,551	5,365	((3))	250	106,849	1,096	((3))
Median	59,420	1,599	229,000	276	26,625	1,654	14,041
Minimum	50,605	1	((3))	57	15,022	−3,094	((3))
Maximum	92,506	24,450	((3))	430	517,366	3,212	((3))
Issuers Having Total Assets From $100 Million to $1 Billion							
Observations	$12	12	3,000	12	$12	$12	$5
Mean	233,824	3,270	((3))	981	232,921	6,572	40,082
Median	144,288	545	1,279,000	501	70,735	4,144	39,936
Minimum	102,021	1	((3))	90	497	−124	22,221
Maximum	524,658	22,002	((3))	3,800	1,686,629	22,610	56,625

Table 4.—*Characteristics of 15(d) Issuers by Size of Total Assets* [1]—Continued

[Dollars in thousands]

	Total assets	Number of shareholders	Annual trading volume	Number of employees	Total revenue	Net income	Market value of shares outstanding
Issuers Having Total Assets From $1 Billion							
Observations	$2	1	2,000	1	$2	$2	$2
Mean	([2])	([2])	([2])	([2])	([2])	([2])	([2])
Median	1,672,556	2,341	2,940,000	845	624,571	23,710	577,923
Minimum	([2])	([2])	([2])	([2])	([2])	([2])	([2])
Maximum	([2])	([2])	([2])	([2])	([2])	([2])	([2])

[1] Data for fiscal years ending between July 1, 1978, and June 30, 1979.
[2] Statistics, other than medians, which are based on less than five observations are not presented.
Sources: Form 10-K Reports. NASDAQ-OTC Securities Fact Book, 1978; and National Daily Quotation.

Table 5.—*Classification of Selected 12(b), 12(g), and 15(d) Issuers Summary Median Statistics* [1]

[Dollars in thousands]

Categories by asset size (in millions of dollars)	Asset size	Number of shareholders	Annual trading volume	Number of employees	Total revenue	Net income	Market value of shares outstanding
All issuers:							
All sizes	$64,190	2,394	([2])	1,304	$72,032	$3,638	$23,068
Under $3.0	1,059	868	161,000	30	945	−7	613
$3.0 to $4.9	3,744	633	([2])	80	6,948	226	1,273
$5.0 to $9.9	6,602	782	461,000	174	9,231	390	2,649
$10.0 and over	88,609	3,042	759,000	1,791	98,972	5,030	31,765
12(b) issuers:							
All sizes	98,885	4,298	791,000	2,675	137,567	7,021	30,161
Under $3.0	1,942	743	41,000	62	2,131	18	648
$3.0 to $4.9	3,502	800	130,000	106	2,298	151	3,677
$5.0 to $9.9	7,668	1,266	223,000	281	12,236	489	2,848
$10.0 and over	103,580	4,460	822,000	2,799	144,078	7,358	31,546
12(g) issuers:							
All sizes	48,777	1,547	499,000	637	41,568	2,002	20,715
Under $3.0	1,209	1,037	149,000	38	1,140	6	683
$3.0 to $4.9	3,590	675	323,000	97	8,161	262	1,233
$5.0 to $9.9	6,348	768	526,000	159	9,623	416	2,760
$10.0 and over	79,181	2,014	607,000	1,000	65,615	3,203	33,600
15(d) issuers:							
All sizes	28,712	449	([2])	197	11,914	862	11,742
Under $3.0	574	392	202,000	5	311	−47	409
$3.0 to $4.9	4,455	399	([2])	5	3,731	110	558
$5.0 to $9.9	7,578	419	180,000	190	3,166	90	1,572
$10.0 and over	53,214	497	1,279,000	341	21,688	1,667	22,221

[1] The median statistics shown were tabulated from the data reported in Tables 2 through 4. Statistics reported for asset size categories "all sizes," "under $3 million," and "$10 million and over" for each of the three issuer categories and for all issuers were estimated by taking a weighted average of the appropriate data shown in those tables. Accordingly, care should be exercised in interpreting the meaning of these composite statistics, due to the methodology employed ot choose the samples of issuers from which the data in Tables 2 through 4 were computed.
[2] Statistics not presented. The shortage of sufficient annual trading volume observations for the 15(d) issuers in these categories introduces a severe bias to the data.

C. Possible Modifications to Reporting Requirements of the Exchange Act

1. *General.* The Commission is currently considering the feasibility of establishing classes of small issuers, pursuant to its rulemaking authority under Sections 12(h) and 13(c) of the Exchange Act,[19] for the purpose of determining whether to relieve such issuers of certain reporting and other requirements under the Exchange Act. In this connection, the Commission is asking commentators to address the following general questions which must be considered before any classification system can be adopted:

Question 1: Would small companies benefit from a classification system that would provide for reduced disclosure requirements for small issuers under the Exchange Act? Would such a system be consistent with the protection of investors?

Question 2: What criteria should the Commission use in establishing categories of issuers (*i.e.* asset size, revenues, net worth, number of shareholders, some combination of the foregoing, etc.)?

[19] Section 12(h) states: The Commission may by rules and regulations exempt in whole or in part any issuer or class of issuers from the provisions of subsection (g) of this section or from Section 13, 14 or 15(d) or may exempt from Section 16 any officer, director or beneficial owner of securities of any issuer, any security of which is required to be registered pursuant to subsection (g) hereof, upon such terms and conditions and for such period as it deems necessary or appropriate, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors. The Commission may, for purposes of any of the above-mentioned sections or subsections of this title, classify issuers and prescribe requirements appropriate for each such class.

Section 13(c) states: If in the judgement of the Commission any report required under subsection (a) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submission of such reports of comparable character as it may deem applicable to such class or classes of issuers.

Question 3: Should a classification system modify the nature or frequency of periodic reports, or both? To what extent, if any, will such modification to the nature and/or frequency of the periodic reporting requirements result in a significant cost savings?

Question 4: Would a substantial reduction in reporting requirements result in a decline in analyst, investor, or market maker interest or a diminution in the efficiency of the trading markets or affect the ability of market professionals to fulfill their responsibilities, since it may be more difficult to obtain current information about such companies? How might this affect the cost of raising capital or attracting public investors, including institutional and/or accredited investors as defined by Rule 242 under the Securities Act?

Question 5: To what extent would reduced reporting requirements affect an issuer's position under other provisions of the Federal securities laws (such as meeting the information requirements of Rules 146 and 242)? To what extent, if any, would reduced reporting requirements impose additional compliance burdens under various state securities laws?

In addition to soliciting responses to the general questions set forth above, the Commission would like to focus specifically on the parameters of the first possible category of issuers which may be relieved of certain obligations, the very smallest companies. This category might consist of companies, for example, with assets between $2 million and $3 million. As indicated by the attached tables, approximately 1,000 issuers now reporting to the Commission fall within this category. It would seem that the burdens of complying with the reporting requirements of the Exchange Act would be greatest for these very small companies. There is no doubt that the shareholders of these companies would be deprived of certain information to which they now have access if these companies were required to file less frequently or in less detail than they now do. However, such shareholders may be willing to forego some of this information in exchange for cost savings to their companies.

It might also be argued that since the million dollar asset requirement was established by Congress in 1964, inflation alone should result in this figure being raised to something between $2 million and $3 million.[20]

2. *Criteria and Reporting Requirements for the First Category of Issuers.* One approach that may be considered by the Commission is to require the first category of small issuers to file some type of basic data document in lieu of a Form 10. This document, which would be substantially abbreviated from the Form 10, could contain information similar to that required by Rule 15c2–11 (17 CFR 240.15c2–11).[21] In addition, issuers in this category might be required to update this basic short form document with an annual filing with the Commission or alternatively to furnish their stockholders with an annual report containing the information required by the short form document and file a copy of the annual report with the Commission. Companies that are currently registered under Section 12(g) that fall within the first size category of issuers might have the option at the commencement of the system to comply with the same annual reporting requirements as new registrants. For those companies in the first category of small issuers that are registered pursuant to Section 12(b) of the Exchange Act, or whose reporting obligations result solely from Section 15(d) thereof, the Commission is uncertain as to whether those issuers should be afforded similar treatment, or whether they should be distinguished from issuers registered under the Exchange Act pursuant to Section 12(g) thereof. Of course, any issuer which meets the limited assets criteria would be permitted to file voluntarily, or otherwise disclose, the full spectrum of information currently required.

With respect to these concerns and the contemplated registration and reporting system discussed above, the Commission invites comments from interested persons on certain matters. Questions 6 through 8 relate to the appropriate criteria for defining the first category of small issuers. The balance of the questions relate to the specific obligations that might be modified for this first group. Commentators are asked also to consider the significance of any cost savings in responding to questions regarding how such obligations might be modified.

Question 6: Should issuers which have reporting obligations solely by virtue of Section 15(d) of the Exchange Act be distinguished from issuers registered pursuant to Section 12(g) and, therefore, be required to file all supplementary, periodic and current reports, at least for the remaining fiscal year in which their registration statement was declared effective?

Question 7: Because of a presumed higher level of market activity, should issuers that are registered pursuant to Section 12(b) of the Exchange Act be distinguished from issuers registered pursuant to Section 12(g) and therefore be required to file the full spectrum of information currently required?

Question 8: Is an increase in the asset size criteria (the criteria presently used in Section 12(g)) an appropriate adjustment with respect to the first category of issuers? If so, would a simple inflationary adjustment be sufficient or appropriate? Should a shareholder test also be included? Would criteria other than asset size be preferable?

Question 9: Should an issuer within the first category be permitted to file only a basic data document after reaching a $1 million asset threshold without incurring any annual reporting obligation, as long as the issuer does not exceed the maximum level of total assets? If only a single document is required, would this be consistent with the protection of investors or the public interest?

Question 10: Should the Commission require only an annual update of the basic data document and, if so, to what extent, if any, would this result in a significant cost savings to the issuer?

Question 11: Should issuers be required to furnish an annual report to stockholders containing an update of the information required in the basic short form document with a copy to the

[20] From 1964 to 1979, the general price level has increased by 128 percent, as measured by the implicit price deflator for Gross National Product. The deflator for Gross Private Fixed Investment, which includes such business assets as plant and equipment, indicates a 147 percent price increase over the same period. If the latter index is a reasonable proxy for price inflation affecting business capital, a simple inflationary adjustment to the $1 million total asset threshold established for reporting purposes by the 1964 Amendments would result in a $2,470,000 asset threshold in 1979.

[21] The pertinent provisions of Rule 15c2–11 require the broker to have in his records and make available to any person expressing an interest in a proposed transaction the following information concerning the issuer:

(1) the exact name of the issuer and its predecessor (if any);

(2) the address of its principal executive offices;

(3) the state of incorporation, if it is a corporation;

(4) the exact title and class of the security;

(5) the par or stated value of the security;

(6) the number of shares or total amount of the securities outstanding as of the end of the issuer's most recent fiscal year;

(7) the name and address of the transfer agent;

(8) the nature of the issuer's business;

(9) the nature of products or services offered;

(10) the nature and extent of the issuer's facilities;

(11) the name of the chief executive officer and members of the board of directors;

(12) the issuer's most recent balance sheet and profit and loss and retained earnings statements;

(13) similar financial information for such part of the two preceding fiscal years as the issuer or its predecessor has been in existence;

(14) whether the broker or dealer or any associated persons is affiliated, directly or indirectly with the issuer; . . .

Commission, in lieu of an annual basic data document filing requirement?

Question 12: Would information similar to that required by Rule 15c2–11 provide sufficient information for the reduced registration and reporting obligations presently envisioned?

Question 13: Should registrants in the first category of issuers be permitted to include financial statements in the initial basic short form document which have been certified in accordance with GAAP but not in accordance with Regulation S–X?

Question 14: Should issuers be required to file reports on Form 8–K for those transactions or events requiring current disclosure since it would appear that occurrences of those events presently prescribed by the Form are more likely with smaller issuers? Would such a filing requirement impose significant cost burdens on those issuers that would report under the first category?

Question 15: To what extent, if any should the requirement to file quarterly reports on Form 10–Q be modified?

3. *Applicability of Proxy Rules.* In addition to the potential modification or elimination of periodic, supplementary and current reporting obligations under Section 13(a) of the Exchange Act, it is also contemplated that smaller issuers, particularly those reporting in the first level of the system, might be relieved of certain compliance obligations under the proxy solicitation and information statement requirements of Sections 14 (a) and (c) pursuant to the Commission's broad authority to classify issuers under Section 12(h). One possiblity being considered would be to require issuers to send proxy and information statements to stockholders but not furnish such statements in preliminary form to the Commission.[22]

In light of the foregoing, the Commission invites comments on the following matters:

Question 16: To what extent, if any, should the Commission relieve the first category of issuers from the obligations imposed by Sections 14 (a) and (c)? Would a reduction in the applicability of the proxy rules for smaller issuers reduce substantially the benefits which shareholders receive, particularly in the area of participation in corporate governance?

Question 17: Should these issuers be required to furnish proxy and information statements to their stockholders but not file such statements on a preliminary basis with the Commission for those transactions not involving extraordinary coroporate events, e.g. mergers, acquisitions, sale of assets, etc.?

Question 18: To what extent, if any, would total relief from the proxy solicitation and information statement requirements of Sections 14(a) and (c) of the Exchange Act or relief from the requirement to file preliminary material with the Commission result in a significant cost savings to the issuer? If there is such a savings, would the savings be substantially reduced or eliminated if an annual report to shareholders prepared in accordance with Rule 14a–3 is required?

Question 19: If the obligations imposed by Sections 14(a) and (c) are eliminated, should certain material transactions requiring shareholder approval, such as mergers, acquisitions or sales of assets, trigger compliance with the proxy solicitation and information statement provisions of the Exchange Act?

4. *Applicability of the Williams Act, the Foreign Corrupt Practices Act and Section 16 of the Exchange Act.* The Commission is currently of the view that the protections afforded by the Williams Act, the internal accounting controls and recordkeeping provisions of the Foreign Corrupt Practices Act, and the short swing trading provisions of Section 16 should continue to be applicable to all issuers. With respect to the Williams Act, the principal burdens imposed by compliance with that Act rest primarily with certain purchasers of the issuer's shares or those persons making a tender offer for such shares, and not on the target issuer. In the case of the accounting provisions of the Foreign Corrupt Practices Act, the Commission recognizes that the management of a business must evaluate the cost/benefit relationships of the steps to be taken in fulfillment of its statutory responsibilities and, therefore, the size of the company may appropriately be considered when implementing and maintaining a system of internal accounting controls.[23] With respect to Section 16, there is no reason to believe that compliance by officers, directors and 10 percent beneficial owners imposes any undue burdens or hardships on smaller issuers. Accordingly, the Commission believes that compliance with the Williams Act, the foreign Corrupt Practices Act, and Section 16 of the Exchange Act should continue to be required for small companies. Commentators who wish to address these or other Exchange Act provisions should, however, feel free to do so.

All interested persons are invited to submit their written views or comments on the foregoing questions and on any other areas which they believe might affect consideration of a system which would provide for the classification of companies for purposes of modifying the reporting or other requirements under the Exchange Act. These comments should be sent in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 15, 1980. Such communications should refer to File No. S7–837, and will be available for public inspection.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 2, 1980.

[FR Doc. 80–17689 Filed 6–12–80; 8:45 am]

BILLING CODE 8010–01–M

[22] The Commission notes, however, that some of these Federal requirements may be particularly useful supplements to State law in transactions such as "going private."

[23] Moreover, the legislative history of the Foreign Corrupt Practices Act indicates that the size of the business, diversity of operations, degree of centralization of financial and operating management, amount of contact by top management with day-to-day operations, and numerous other circumstances are factors which management must consider in establishing and maintaining an internal accounting controls system. *See* S. Rep. No. 95–114, 95th Cong., 1st Sess. (1977).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 103

[Docket No. 80N–0193]

Bottled Water; Quality Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the quality standard for bottled water by including a chemical quality level of 0.10 milligram per liter for total trihalomethanes (TTHM's) in bottled drinking water.

DATE: Comments by August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: Under section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349), whenever the Environmental Protection Agency (EPA) prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, FDA is obligated to consult with EPA and either

promulgate amendments to bottled water regulations or the reasons for not amending the regulations.

In the **Federal Register** of November 29, 1979 (44 FR 68624) EPA issued the final rule, "National Interim Primary Drinking Water Regulations, Control of Trihalomethanes in Drinking Water." This regulation established a Maximum Contaminant Level (MCL) of 0.10 milligram per liter for TTHM's that are introduced into drinking water by the reaction of naturally occurring substances with chlorine. Requirements for monitoring public water systems and reporting that information to EPA and to State agencies were also included in that regulation.

EPA's decision to establish the MCL for TTHM followed an extensive evaluation of several factors related to human exposure to trihalomethanes (THM's). Consideration was given to the potential health risks of chloroform and other THMs; the fact that THM are the most ubiquitous synthetic organic chemicals found in drinking water in the U.S. and are generally found at the highest concentrations of any such chemicals; the fact that THMs are introduced in the course of water treatment as byproducts of the chlorination process and thus are readily controllable; that low cost and feasible means have been generally available since 1974 to reduce their concentrations in drinking water; that monitoring is feasible; and that the THMs are also indicative of the presence of a host of other halogenated and oxidized, potentially harmful byproducts of the chlorination process that are concurrently formed in even larger quantities but which cannot be readily characterized chemically. Through discussions of these factors may be found in the preambles to EPA's proposed regulations on trihalomethanes published in the **Federal Register** of February 9, 1978 (43 FR 5756) and July 6, 1978 (43 FR 29135) and in the final rule published November 29, 1979

In testimony presented at EPA's public hearing in Washington, DC, on July 11–12, 1978, the FDA endorsed EPA's efforts to reduce human exposure to organic contaminants in drinking water. Therefore, the FDA agrees with EPA's decision to regulate THM levels in drinking water and, in accordance with FDA's statutory obligation under section 410 of the act, is proposing to amend 21 CFR 103.35(d) to include a chemical quality level of 0.10 milligram per liter (mg/L) for TTHM's in bottled water.

Bottled water manufacturers are responsible for ensuring that source waters used for bottled water products are free of excessive chemical, microbiological, and radiological contaminants (21 CFR 129.35). Subsequent processing and packaging of the source water should not increase the levels of these contaminants. Because the technology is available to prevent or reduce THM formation in drinking water, the level of THM in finished product bottled water should not exceed that of the source water. Thus, the MCL of 0.10 mg/L which EPA has determined to be achievable for public water systems can appropriately be established as a limit applicable to bottled drinking water.

FDA is adopting EPA's definitions of trihalomethane (THM) and total trihalomethane (TTHM) and is proposing to revise 21 CFR 103.35(a) to include those definitions. EPA defined trihalomethane as "one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure." Total trihalomethanes is defined as "the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane and tribromomethane [bromoform]), rounded to two significant figures."

In addition, the EPA final rule of November 29, 1979 is requiring that all public water systems which serve more than 10,000 people and add a disinfectant (oxidant) to the water analyze 4 samples per quarter for TTHM. These monitoring requirements may be reduced to 1 sample per quarter for TTHM, after 1 year of data indicating that the THM level is consistently below 0.10 mg/L and as long as subsequent yearly samples indicate THM levels below 0.10 mg/L. Because of inherent differences between the processing of water for public water systems and the processing of bottled drinking water, FDA is requiring a minimum of one analysis per year for TTHM's for each type of finished product bottle water. This testing requirement is consistent with testing requirements set forth in 21 CFR 129.80 for other chemical contaminants in bottled water. Following revision of 21 CFR 103.35 to include a chemical quality level for TTHM, the testing requirements set forth in the current good manufacturing practice regulation for processing bottled water (21 CFR 129.80(g)(2)) would apply to TTHM's and would require at least annual testing of representative samples of finished product for TTHM's, as well as other chemical contaminants.

The methodology that FDA will use for compliance purposes to determine the level of TTHM's in bottled water is:

(1) "The Analysis of Trihalomethanes in Finished Waters by the Purge and Trap Method," Method 501.1, EMSL, EPA Cincinnati, Ohio.

(2) "The Analysis of Trihalomethanes in Drinking Water by Liquid/Liquid Extraction," Method 501.2, EMSL, EPA Cincinnati, Ohio.

Copies of these methods are available from Methods Development Quality Assurance Research Laboratory, Environmental Protection Agency, Cincinnati, Ohio 45268.

The agency has determined under 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this action is a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(h), 410, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 88 Stat. 1694 (21 U.S.C. 341, 343(h), 349, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 103 be amended in § 103.35 by revising paragraphs (a) and (d)(1) to read as follows:

§ 103.35 Bottled water.

(a) *Definitions.* (1) "Bottled water" is defined as water that is sealed in bottles or other containers and intended for human consumption. Bottled water does not include mineral water or any food defined in § 165.175 of this chapter.

(2) "Trihalomethane" (THM) means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

(3) "Total Trihalomethanes" (TTHM) means the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane and tribromomethane [bromoform]), rounded to two significant figures.

* * * * *

(d) *Chemical quality.* (1)(i) Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in paragraph (d)(1)(ii) of this section, meet standards of chemical quality and shall not contain chemical

substances in excess of the following concentrations:

Substance—Concentration in milligrams per liter	
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chloride	250.0
Chromium	0.05
Copper	1.0
Iron	0.3
Lead	0.05
Manganese	0.05
Mercury	0.002
Nitrate (N)	10.0
Phenols	0.001
Selenium	0.01
Silver	0.05
Sulfate	250.0
Total dissolved solids	500.0
Zinc	5.0
Organics:	
Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-1,4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachloro-cyclohexane, gama isomer)	0.004
Methoxychlor (1,1,1-trichloro-2,2-bis[p-methoxy-phenyl] ethane	0.1
Total Trihalomethanes	0.10
Toxaphene (C H CL—technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-trichlorophenoxypropionic acid	0.01

(ii) Analyses conducted to determine compliance with paragraph (d)(1)(i) of this section shall be made in accordance with the methods described in the applicable sections of "Standard Methods for the Examination of Water and Wastewater," 14th Ed., 1975 [1] or "Methods for Chemical Analysis of Water and Wastes," 1974,[1] both of which are incorporated by reference. Analyses for organic substances shall be determined by appropriate methods described in "Methods for Organochlorine Pesticides in Industrial Effluents" [2] and "Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents," November 28, 1973,[2] which are incorporated by reference, and "Part I: The Analysis of Trihalomethanes in Finished Waters by the Purge and Trap Method," Method 501.1 and "Part II: The Analysis of Trihalomethanes in Drinking Water by Liquid/Liquid Extraction," Method 501.2, in 40 CFR Part 141, Appendix C (45 FR 68672; November 29, 1979).

Interested persons, may on or before August 12, 1980, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

The agency has considered the regulatory impact of this proposed regulation and has determined that, if adopted, the proposal would not cause a major impact as defined in Exeuctive Order 12044. A copy of the FDA Regulatory Analysis Assessment is on file with the Hearing Clerk, at the address given above.

Note.—Incorporations by reference approved by the Director of the Office of the Federal Register on July 8, 1976, November 29, 1978.

Dated: June 10, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–17995 Filed 6–012–80; 8:45 am]

BILLING CODE 4110–03–M

[1] Copies are available from: Office of Technology Transfer, Environmental Protection Agency, Washington, DC 20460, or may be examined at the Federal Register Library.

[2] Copies are available from: Methods Development Quality Assurance Research Laboratory, Environmental Protection Agency, Cincinnati OH 45268, or may be examined at the Federal Register Library.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[Docket No. R–80–822]

Community Development Block Grant—Housing Assistance Plan Performance Standards

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review. This interim rule would revise 24 CFR Section 570.909(e)(2) to clarify the performance standards to be used by HUD in evaluating a grantee's progress toward the achievement of its three-year Housing Assistance Plan (HAP) goals.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW, Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 570—Community Development Block Grant—Housing Assistance Plan Performance Standards

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., June 6, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80–17843 Filed 6–12–80; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 888

[Docket No. R–80–823]

Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request under Section 7(o)(4) of the Department of Housing and Urban Development Act.

SUMMARY: Recently enacted legislation enables the Congress to review certain HUD rules. The legislation, however, permits the Secretary to request waiver of the review procedure in appropriate instances. This Notice lists and briefly summarizes for public information an interim rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the interim rule listed below. The purpose of the transmittal is to request waiver of the 15 day prepublication review period for the interim rule under Section 7(o) of the Department of HUD Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Interim Rule—24 CFR 888—Fair Market Rents for Section 8 New Construction/ Substantial Rehabilitation

This interim rule establishes a Financing Adjustment Factor for use in amending applicable Fair Market Rents (FMRs) to reflect the extent to which costs for certain categories of projects are affected by increased financing

costs. Since October 1979, market interest rates have been highly volatile, resulting in a situation where the Section 8 Fair Market Rent schedules no longer reflect prevailing rents and costs.

The rule will apply to all Section 8 new construction or substantial rehabilitation projects that are not financed through a fixed rate program such as Section 202, Farmers Home Section 515, or GNMA Tandem. Generally, projects which depend on the tax-exempt market for their permanent financing will be eligible for FMRs derived from the Financing Adjustment Factor.

The Financing Adjustment Factor will increase the existing FMR schedule by a factor of 1.15. The rules governing use of the factor would not permit use of it until after the terms of the permanent financing are established. When eligible projects are processed and contract rents are approved, parties must agree to use the existing FMR schedule and a stated (expected to be 8.5 percent) mortgage interest rate. This will put all projects on an approximately equal footing during processing but provide sufficient room under the adjusted FMRs to accommodate higher financing costs if these occur at a later stage. It will also result in the higher rents being used only when required by high interest rates.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., June 10, 1980.

Victor Marrero,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 80-17939 Filed 6-12-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

28 CFR Part 22

Confidentiality of Identifiable Research and Statistical Information

AGENCY: Department of Justice (DOJ)/ Office of Justice Assistance, Research, and Statistics (OJARS), Law Enforcement Assistance Administration (LEAA), National Institute of Justice (NIJ), and Bureau of Justice Statistics (BJS).

ACTION: Notice of proposed rulemaking.

SUMMARY: OJARS is amending its regulations governing research and statistical information to conform them to the statutory amendments made by the Justice System Improvement Act of 1979 (JSIA).

DATES: Comments must be received on or before August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas J. Madden, General Counsel, Office of Justice Assistance, Research, and Statistics (202) 724-7792.

SUPPLEMENTARY INFORMATION: The Law Enforcement Assistance Administration (LEAA) was reorganized by the Justice System Improvement Act of 1979 (JSIA), Pub. L 96-157, on December 27, 1979. The provision dealing with confidentiality of identifiable research and statistical information (section 818(a)) differs from the previously applicable provision in the Crime Control Act of 1976, Pub. L. 94-503, (section 524(a)) in only three respects. First, section 818(a) of the JSIA no longer limits immunity to copies of information obtained during a research or statistical project. Under the added language, immunity is provided to the individuals who recall information elicited during a research or statistical project as well as to written copies of such information. The second change is the provision adding legislative to the enumerated proceedings where immunity from legal process is authorized. The third change, expands the organizational entities involved to, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance, Research and Statistics. Accordingly, 28 CFR Part 22 is amended as follows:

PART 22—CONFIDENTIALITY OF IDENTIFIABLE RESEARCH AND STATISTICAL INFORMATION

(1) Wherever the word LEAA appears throughout the regulations add "BJS, NIJ, or OJARS."

§ 22.22 [Amended]

(2) Amend § 22.22(a)(2) to read "such individuals as needed to implement sections 202(c)(3), 802, and 817(b) of the Act; and

§ 22.28 [Amended]

(3) Amend § 22.28 by adding in the title a comma after the word "judicial" and then the word "legislative."

(4) Amend § 22.28(a) by deleting the words "copies of" in the first sentence and adding the word "legislative" after the word "judicial."

(5) Amend § 22.28(b)(1) by adding the word "legislative" after the word "judicial."

§ 22.6 [Amended]

(6) Amend § 22.29 by deleting "524(a)" and adding in lieu thereof "818(a)."

Written comments should be submitted to Thomas J. Madden, General Counsel, Office of Justice Assistance, Research, and Statistics, 633 Indiana Avenue NW., Washington, D.C. 20531. All material received by August 20, 1980, will be considered.

Henry S. Dogin,

Director, Office of Justice Assistance, Research, and Statistics.

[FR Doc. 80-17811 Filed 6-12-80; 8:45 am]

BILLING CODE 4410-18-M

28 CFR Part 23

Criminal Intelligence Systems Operating Policies

AGENCY: Department of Justice/Office of Justice Assistance, Research, and Statistics.

ACTION: Notice of proposed rulemaking.

SUMMARY: These Criminal Intelligence Systems Operating Policies are added to Part 23 of 28 CFR. The purpose of the reissuance is to make these standards applicable to intelligence systems funded under the formula grant program, the $5,000,000 State and Local Drug Strike-Force Grant Program as well as categorical grant programs administered by the Law Enforcement Assistance Administration. Two modifications to the Criminal Intelligence Systems Operating Policies are also proposed. The first modifies the mandatory two-year review period. The second clarifies the procedure for certification of compliance with the standards.

DATE: Comments must be received by August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas J. Madden, General Counsel, Office of Justice Assistance, Research, and Statistics, U.S. Department of Justice, Washington, D.C. 20531 (202) 724-7792.

SUPPLEMENTARY INFORMATION: Policies for the funding and operation of the Law Enforcement Assistance Administration (LEAA) Discretionary funded Intelligence Systems were adopted June 30, 1978 (43 FR 28572). The LEAA was reorganized by the Justice System Improvement Act of 1979 (JSIA), Pub. L. 96-157, 93 Stat. 1167, 42 U.S.C. 3701 *et seq.* Section 818(c) of that Act requires that the Office of Justice Assistance, Research, and Statistics prescribe policy standards for all criminal intelligence systems operated through support under the JSIA. The policies must assure that the funding and operation of intelligence systems further the purposes of the Act and not in violation of the privacy and constitutional rights of individuals.

Accordingly the 1978 guidelines are being revised to cover formula (those funds allocated to the states which are thereafter awarded by the states and local governments) as well as categorical (discretionary) grants funded under the JSIA. They also will cover systems funded under the State and Local Drug Strike Force Grant Program. 28 CFR Ch. 1 (28 CFR Ch. 1, 45 FR 28321 dated April 29, 1980) delegated authority to administer the State and Local Drug Strike Force Grant Program to the Director of the Office of Justice Assistance, Research, and Statistics. The Director was authorized to promulgate regulations as are necessary and appropriate for the effective administration of that program. The program is authorized under a $5,000,000 fund for "joint state and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all support activities related thereto" (Pub. L. 96–132, November 30, 1979). A program announcement setting forth the criteria for awards under the State and Local Drug Strike Force Grant Program has been promulgated and may be found in this issue of the **Federal Register**.

Two substantive amendments to the guidelines are being proposed:

(1) A modification of the mandatory two-year review period; and

(2) A clarification of the procedures for certification of compliance with the standards.

At the time the operating guidelines were originally published in the **Federal Register**, a number of comments were received which indicated that the two year period of review would be an undue burden. However, we believed at that time that we should at least attempt a two-year review period. Further consultation with the criminal justice agencies, Federal, State, and local, having intelligence operations indicates that a two-year periodic review of all retained information within intelligence files may be an ideal goal to work towards, but would require additional personnel far in excess of available resources.

The length of time needed to review intelligence file information to determine if it is obsolete, misleading or otherwise unreliable is directly related to the amount of information to be reviewed and the manpower available to do the job. The review of intelligence files involves these steps: (1) Intelligence analysts or a file maintenance person must first identify information to be reviewed, (2) As most of the intelligence information contained in an interjurisdictional intelligence operation has been submitted by individual member agency intelligence units, a formal request must then be made of the member agency to validate the information on file, (3) The member agency must then perform its own review and often additional investigation to reach a decision on the retention of the information under review, and (4) The member agency must then re-submit the information or the reasons for recommending destruction, to the intelligence operation where it must then be re-examined before final action is taken.

The modification proposed provides the same degree of insuring the integrity of the files. The proposed change will delete the required two year review on all information and require a periodic review of all information on a time schedule developed by the individual agency. However, the modification retains the two-year period by providing that where the information to be disseminated or utilized has been retained within the system but has not been reviewed for a period of two years, it must be reviewed and validated before it can be utilized or disseminated.

The second modification deals with the interpretation given (by operating agencies) that every agency submitting or receiving information from the intelligence operation must sign a compliance form. Agencies have also interpreted this provision as extending to every other agency which subsequently deals with an agency that submits and receives information from the covered intelligence system. Thus, § 23.30(a)(3) is being clarified to show the extent to which written compliance is necessary.

Part 23 is added to Title 28 CFR to read as follows:

PART 23—CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Sec.

23.1 Purpose.
23.2 Background.
23.3 Applicability.
23.20 Operating principles.
23.30 Funding guidelines.
23.40 Monitoring and Auditing of Grants for the Funding of Intelligence Systems.

Authority: Pursuant to the authority vested in the Office of Justice Assistance, Research, and Statistics by sections 818(c) and 802(a) of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended by the Omnibus Crime Control Act of 1970, Pub. L. 91–644, 84 Stat., 1880 (Jan. 2, 1971), the Crime Control Act of 1973, Pub. L. 93–83, 87 Stat. 197 (Aug. 6, 1973), the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, 88 Stat. 1109 (Sept. 7, 1974), the Public Safety Officers' Benefits Act of 1976, Pub. L. 94–430, 90 Stat. 1346 (Sept. 29, 1976), the Crime Control Act of 1976, Pub. L. 94–503, 90 Stat. 2407 (Oct. 15, 1976), the Juvenile Justice Amendments of 1977, Pub. L. 95–155, 91 Stat. 1048 (Oct. 3, 1977), and the Justice System Improvement Act of 1979, Pub. L. 96–157, 93 Stat. 1167.

§ 23.1 Purpose.

The purpose of these regulations is to assure all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, and Pub. L. 96–157), are utilized to conformance with the privacy and constitutional rights of individuals.

§ 23.2 Background.

It is recognized that certain criminal activites including but not limited to, loan sharking, narcotics, trafficking in stolen property, gambling, extortion, smuggling, bribery, and corruption of public officials often involve some degree of regular coordination and permanent organization involving a large number of participants over a broad geographical area. The exposure of such ongoing networks of criminal activity can be aided by the pooling of information about such activities. However, the collection and exchange of intelligence data necessary to support control of serious criminal activity may represent potential threats to the privacy of individuals to whom such data relates, Policy Guidelines for Federally funded projects are required.

§ 23.3 Applicability.

(a) These standards are applicable to all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 423 U.S.C. 3701, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, and Pub. L. 96–157) or under the State and Local Drug Strike Force Grant Program. (Pub. L. 96–68 and Pub. L. 96–132).

(b) As used in these policies, "Intelligence Systems" means the arrangements equipment, facilities, and procedures used for the continuing storage, exchange and analysis of criminal intelligence data, however, the term does not include modus operandi files; 'Interjurisdictional Intelligence Systems' means those systems for the continuing exchange of criminal intelligence data between local, county, or larger political subdivisions, including the exchange of data between State or local agencies and units of the Federal Government.

§ 23.20 Operating Principles.

(a) Criminal intelligence information concerning an individual shall be collected and maintained only if it is reasonably suspected that the individual is involved in criminal activity and that the information is relevant to that criminal activity.

(b) No records shall be maintained or collected about political, religious or social views, association or activities of any individual, group, association, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.

(c) No information which has been obtained in violation of any applicable Federal, State, or local law or ordinance shall be included in any criminal intelligence system.

(d) Intelligence information shall be disseminated only where there is a need to know/right to know the data in the performance of a law enforcement activity.

(e)(1) Except as noted in (2) below, intelligence information shall be disseminated only to other law enforcement authorities who shall agree to follow procedures regarding data entry, maintenance, security, and dissemination which are consistent with these standards.

(2) Paragraph (1) above shall not limit the dissemination of an assessment of criminal intelligence information to a Government official or to any other individual, when necessary, to avoid imminent danger to life or property.

(f) Agencies maintaining criminal intelligence data shall adopt administrative, technical, and physical safeguards (including audit trails) to insure against unauthorized access and against intentional or unintentional damage. A written record indicating who has been given data, reason for release and date of each dissemination outside the agency is to be kept. Information shall be labeled to indicate levels of sensitivity, levels of confidence, and the identity of control agencies and officials. Each agency must establish written standards for need to know/right to know under subsection (d).

(g) Procedures shall be adopted to assure that all information which is retained has relevancy and importance. Such procedures shall provide for the periodic review of data and the destruction of any information which is misleading, obsolete or otherwise unreliable and shall require that any recipient agencies be advised of such changes. All information retained as a result of this review must reflect the name of the reviewer, date of review and explanation of decision to retain. Any information that has been retained in the system but has not been reviewed for a period of two (2) years must be reviewed and validated before it can be utilized or disseminated.

(h) If automated equipment for use in connection with a criminal intelligence system is to be obtained with funds under the grant, then:

(1) Direct remote terminal access to data shall not be made available to system users; and

(2) No modifications to system design shall be undertaken without prior LEAA approval.

(i) LEAA shall be notified prior to initiation of formal information exchange procedures with any Federal, State, regional, or other information systems not indicated in the grant documents as initially approved at time of award.

(j) Assurances shall be made that there will be no purchase or use in the course of the project of any electronic, mechanical, or other device for surveillance purposes that is in violation of the provisions of Title III of Pub. L. 9–351, as amended, or any applicable state statute related to wiretapping and surveillance.

(k) Assurances shall be made that there shall be no harassment or interference with any lawful political activities as part of the intelligence operation.

(l) Sanctions shall be adopted to control unauthorized access, utilization, or disclosure of information contained in the system.

§ 23.30 Funding Guidelines.

(a) LEAA and state criminal justice agencies shall apply the following funding guidelines to all categorical grant applications, and formula grant applications the principal purpose of which is the funding of intelligence systems. Systems shall only be funded where a grantee agrees to adhere to the principles set forth above and the project meets the following criteria:

(1) The proposed collection and exchange of data has been coordinated with and will support ongoing or proposed investigatory or prosecutorial activities relating to specific areas of criminal activity.

(2) The areas of criminal activity in connection with which intelligence data are to be utilized represents a significant and recognized threat to the population and: (i) Is either undertaken for the purpose of seeking illegal power or profits or poses a threat to the life and property of citizens; (ii) Involves a significant degree of permanent criminal organization; and (iii) Is not limited to one jurisdiction.

(3) Control and supervision of information collection and dissemination for the intelligence system will be retained by the head of a government agency or by an individual with general policy making authority who has been expressly delegated such control and supervision by the head of the agency. This official shall certify in writing that he takes full responsibility and will be accountable for the information maintained by and disseminated from the system and that the operation of the system will be in compliance with the standards set forth in § 23.20.

(4) Where the system is an interjurisdictional system the governmental agency which exercises control and supervision over the operation of the system shall have the head of that agency or an individual with general policymaking authority who has been expressly delegated such control and supervision by the head of the agency, (i) officially responsible and accountable for actions taken in the name of the joint entity and (ii) certify in writing that he takes full responsibility and will be accountable for ensuring that the information transmitted to the interjurisdictional system or to other agencies will be in compliance with the standards set forth in § 23.20. The standards set forth in § 23.20 shall be made part of the By-laws or operating procedures for that system. Each member agency, as a condition of membership, must accept in writing these standards which govern the collection, maintenance and dissemination of information included as part of the interjurisdictional system.

(5) Intelligence data will be collected primarily for State and local law enforcement efforts—exceptions being made only for cases involving joint State-Federal efforts.

§ 23.40 Monitoring and audit of grants for the funding of intelligence systems.

(a) Grants for the funding of intelligence systems will receive specialized monitoring and audit in accordance with a plan designed to ensure compliance with operating principles as set forth in § 23.20. Such plan shall be approved prior to award of funds.

(b) All such grants shall be awarded subject to a Special Condition requiring compliance with standards set forth in § 23.20.

(c) An annual notice will be published by OJARS which will indicate the existence and objective of all systems

for the continuing interjurisdictional exchange of intelligence data which are funded under the Act.

Written comments should be submitted to Thomas J. Madden, General Counsel, OJARS, 633 Indiana Avenue NW., Washington, D.C. 20531. All material received by August 20, 1980 will be considered.

Henry S. Dogin,

Acting Director, Office of Justice Assistance, Research, and Statistics.

[FR Doc. 80-17816 Filed 6-12-80; 8:45 a.m.]

BILLING CODE 4410-18-M

Attorney General

28 CFR Part 62

Procedures for the Identification and Protection of Historic, Architectural, and Archeological Properties

AGENCY: Department of Justice.

ACTION: Draft guidelines.

SUMMARY: This notice sets forth the Department of Justice's policies and procedure for the protection of cultural resources under its jurisdiction or control. These regulations fulfill requirements of the National Historic Preservation Act, Executive Order 11593, and other applicable historic preservation laws. They follow guidelines developed by by the Advisory Council on Historic Preservation pursuant to Section 1 of Executive Order 11593, the President's Memorandum on Environmental Quality and Water Resources Management of July 12, 1978, and Section 800.10 of the amended regulations of the Advisory Council on Historic Preservation "Protection of Historic and Cultural Properties" (36 CFR Part 800). These regulations have been jointly drafted with the Advisory Council on Historic Preservation and after public comment and approval by the Council will become counterpart regulations pursuant to 36 CFR 800.11.

DATE: Comments due July 14, 1980.

ADDRESS: Send comments to: J. Vance Hughes, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Ann P. Gailis, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530. (202) 633-1442.

SUPPLEMENTARY INFORMATION: The National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. 470 *et seq.*, requires all federal agencies to take into account in their decisionmaking the effect of an agency undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places.

The draft guidelines proposed herein provide the mechanism by which the Department of Justice will consider cultural resource values before undertaking any action which could potentially affect an historic, architectural, or archeological property under its jurisdiction or control. The procedures provide for consultation among the Department of Justice, State Historic Preservation Officers, and the Advisory Council on Historic Preservation to ensure that consideration of the value of cultural resources is initiated at the earliest stages of the planning process and continued throughout the undertaking. The review process includes identifying National Register properties eligible for the National Register within the area of the undertaking's potential environmental impact, determining whether the undertaking will have an effect on these properties, and endeavoring to employ alternatives or mitigation measures which would lessen the effect of the undertaking on the resources whenever the impact cannot be totally avoided.

It is the intention of the Department of Justice to coordinate these review requirements with those required under statutes protecting the environment, particularly the National Environmental Policy Act (NEPA). Whenever possible, the procedures detailed herein are to be documented in the environmental assessment or environmental impact statement required by NEPA so that unnecessary paperwork can be eliminated.

The Department of Justice has determined that most of its actions do not come within the definition of "undertaking" invoking the National Historic Preservation Act review process. The Department of Justice is primarily engaged in litigation activities and in giving legal advice, actions not included in the definition of "undertaking" in the Advisory Council on Historic Preservation's regulations [36 CFR 800.2]. The components of the Department of Justice which own property are the Bureau of Prisons, Immigration and Naturalization Service, and Federal Bureau of Investigation; the Law Enforcement Assistance Administration bestows grants which may affect property. The other components of the Department occupy space owned or controlled by the General Services Administration. These proposed guidelines are Department-wide in scope and apply to each of the above components.

Dated: June 2, 1980.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

Therefore Part 62 is proposed to be added to read as follows:

PART 62—PROCEDURES FOR THE IDENTIFICATION AND PROTECTION OF HISTORIC, ARCHITECTURAL, AND ARCHEOLOGICAL PROPERTIES

Sec.

62.1 Purpose.
62.2 Policy.
62.3 Authority.
62.4 Definitions.
62.5 Responsibility.
62.6 Identification of National Register or eligible properties.
62.7 Public participation.
62.8 Determination of effect.
62.9 Identification of alternatives and mitigation measures.
62.10 Submission of Preliminary Case Report.
62.11 Consultation process.
62.12 Agency decision.
62.13 Implementation of mitigation measures.
62.14 Resources discovered during construction.
62.15 Date recovery of archeological resources as no adverse effect.
62.16 Coordination with the National Environmental Policy Act.
62.17 Coordination with the General Services Administration.
62.18 Exception.

Authority: E.O. 11593 of May 13, 1971, "Protection and Enhancement of the Cultural Environment"; 16 U.S.C. 470, National Historic Preservation Act.

§ 62.1 Purpose.

These regulations set forth procedures to be followed by the Department of Justice and all agencies of this Department for the identification, protection, and management of cultural resources under their jurisdiction or control. These procedures implement the regulations of the President's Advisory on Historic Preservation (36 CFR Part 800) which implement Section 106 of the National Historic Preservation Act of 1966, as amended, and Executive Order 11593.

§ 62.2 Policy.

The nonrenewable cultural resources of our country are a valuable and treasured portion of the national heritage of the American people. It is the policy of the Department of Justice to identify these historic and prehistoric resources and to protect them from impacts associated with Departmental undertakings. At the earliest stages in the planning process of an undertaking,

concurrent and integrated with consideration of other potential environmental impacts, the Department of Justice and its agencies shall initiate measures to comply with the National Historic Preservation Act. If, after appropriate review and weighing of the public good to be derived from the undertaking, the impacts on cultural resources cannot be totally avoided, the Department of Justice will endeavor to mitigate to the greatest possible the effects of the undertaking on the cultural resources. The Department will take affirmative action to carry out the cultural resource policies expressed in the Acts and Orders detailed in § 62.3.

§ 62.3 Authority.

The following Federal laws and Executive orders are the most significant of the many that govern cultural resources management:

(a) *Antiquities Act of 1906* (Pub. L. 59–209, 16 U.S.C. 431 *et seq.).* Provides for the protection of historic and prehistoric remains or any subject of antiquity on federal lands; establishes criminal sanctions for unauthorized destruction or appropriation of antiquities.

(b) *Historic Sites Act of 1935* (Pub. L. 74–292, 16 U.S.C. 461 *et seq.*). Establishes a national policy of historic preservation; authorizes the establishment of the National Survey of Historic Sites and Buildings; requires the preservation of significant properties; authorizes programs and agencies to implement the national policy. The Act is the basic authority for the identification of both national historic landmarks and national landmarks.

(c) *Reservoir Salvage Act of 1960* (Pub. L. 86–523, 16 U.S.C. 469–469c). Provides for the recovery and preservation of historical and archeological data that might be lost or destroyed as a result of federally funded dams and reservoirs.

(d) *National Historic Preservation Act of 1966* (Pub. L. 89–665, as amended by the Land or Water Conservation Fund Act of 1976, Pub. L. 94–422, 16 U.S.C., 16 U.S.C. 470). Defines historic preservation as the protection, rehabilitation, and restoration, and restoration of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, or culture; directs the expansion of the National Register of Historic Places (National Register) to include cultural resources of state, local, and national significance; establishes the Advisory Council on Historic Preservation (ACHP); authorizes grants to the states to support preservation projects. Section 106 provides direction for federal agencies to follow in the event an agency undertaking may affect a property on or eligible for the National Register. Section 106 is implemented by regulations issued by the ACHP (36 CFR Part 800). Advisory Council regulations implementing the Act and Executive Order 11593 require coordination of the historical assessment and NEPA review processes (36 CFR 800.9).

(e) *National Environmental Policy Act of 1969* (NEPA) (Pub. L. 91–190, 42 U.S.C. 4321 *et seq.*). Require evaluation of the effect a federal project will have on the total environment, including historic, cultural, and natural aspects of our national heritage, and documentation of this effect in environmental assessment (EA) or environmental impact statement (EIS). Combined with the National Historic Preservation Act and Executive Order 11593, NEPA can insure early and thorough evaluation of cultural values.

(f) *Executive Order 11593,* "Protection and Enhancement of the Cultural Environment," May 13, 1971 (16 U.S.C. 470, 36 FR 8921). Directs federal agencies to ensure the preservation of cultural resources in federal ownership, and institutes direction to ensure that federal plans and programs contribute to preservation and enhancement of nonfederally-owned sites; directs federal agencies to locate, inventory, and nominate all qualified properties under the jurisdiction to the National Register; directs the Secretary of the Interior to prepare standards for their identification and preservation.

(g) *Historical and Archeological Data Preservation Act of 1974* (Pub. L. 93–291, 16 U.S.C. 469–469c). Amends the Reservoir Salvage Act of 1960 to extend its provisions and funding mechanisms for the protection of historical and archeological data at dams to involve any alteration of the terrain caused as a result of any federal construction project or federally licensed or funded activity; requires agencies to notify the Secretary of the Interior and afford the Secretary an opportunity to salvage the historical and archeological data; authorizes agencies to spend up to one percent of the project's cost for the preservation of such data.

(h) *Public Buildings Cooperative Use Act of 1976* (Pub. L. 94–5641, 40 U.S.C. 601(a)(1)). Directs the Administrator of General Services, in managing and acquiring space for federal agencies, to acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives.

(i) *The President's Memorandum on Environmenal Quality and Water Resources Management, July 12, 1978.* Directs federal agencies with water resource and related land resource responsibilities and programs to publish procedures implementing the Advisory Council on Historic Preservation's regulations (36 CFR 800).

(j) *American Indian Religious Freedom Act (92 Stat. 469), August 11, 1978.* Establishes as policy of the United States protection for American Indians of their inherent right to believe, express, and exercise their traditional religion; directs agencies to consult with native traditional leaders in order to determine the potential effect of agency activities upon Native American religious and cultural rights and practices.

§ 62.4 Definitions.

(a) *Advisory Council on Historic Preservation (ACHP or Council).* The independent agency established by Title II of the National Historic Preservation Act to advise the President and Congress, encourage private and public interest in historic preservation, and administer Section 106 of the National Historic Preservation Act.

(b) *National Register of Historic Places.* The nation's official list of properties worthy of preservation for significance in American history, architecture, archeology, and culture. The Register is maintained by the Office of Archeology and Historic Preservation, Department of the Interior. Properties are nominated for inclusion in the Register by state and federal agencies. Determination of eligibility is the responsibility of the Secretary of the Interior, who has delegated it to the Keeper of the National Register. (36 CFR Part 60). The National Register is published in its entirety in the Federal Register each year in February; addenda are published on the first Tuesday of each month.

(c) *National Register Property.* A district, site, building, structure, or object included in the National Register.

(d) *Eligible Property.* Any district, site, building, structure or object that may meet National Register criteria, but has as yet not been nominated.

(e) *Culture.* Learned and shared patterns of human activity which are evident in behavior and the results of behavior.

(f) *Cultural Resources.* Districts, sites, structures, buildings, or objects used by humans in the past. They may be historic, prehistoric, archeological, or architectural in nature. Cultural resources are non-renewable.

(g) *Responsible Agency Official.* The official designated by the head of each office, bureau, or division of the department whose activities may

potentially affect a National Register or eligible property who has specific responsibility for compliance with the National Historic Preservation Act and Executive Order 11593.

(h) *Cultural Resource Specialist.* A qualified professional trained in anthropology, archeology, history, architectural history, or cultural resource management, as appropriate to accomplish Department of Justice goals (36 CFR 1201.5).

(i) *Undertaking.* Any federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any nonfederal action, activity or program. Undertakings include new and continuing projects and program activities that are: (1) directly undertaken by the Department of Justice; (2) supported in whole or in part through Department of Justice contracts, grants, or other forms of funding assistance; (3) carried out pursuant to a Department of Justice lease, permit, or other form of entitlement or permission; (4) proposed by the Department of Justice for Congressional authorization or appropriation. Undertaking also includes recommendations for legislation and the establishment or modification of regulations and planning guidelines. Undertaking does not include the rendering of legal advice or action taken by the Department of Justice within the framework of judicial or administrative enforcement proceedings or civil or criminal litigation. Routine maintenance and limited repair do not ordinarily constitute undertakings unless such maintenance or repair materially alters the characteristics of the structure or property which qualify it for the National Register.

(j) *State Historic Preservation Officer (SHPO).* The official within each state, authorized by the state at the request of the Secretary of the Interior, to act as liaison for purposes of implementing the National Historic Preservation Act.

§ 62.5 Responsibility.

(a) *Assistant Attorney General, Land and Natural Resources Division.*

(1) Has overall responsiblity for ensuring that the responsibilities for protecting cultural resources under the National Historic Preservation Act and other authorities are carried out by the Department of Justice and its agencies.

(2) Will determine which agencies within the department should promulgate program specific procedures, depending upon the extent of their involvement in undertakings potentially affecting cultural resources.

(3) Will review and approve agency procedures for complying with the Act.

(4) Will maintain a list of all properties owned or controlled by the Department which are included in the National Register.

(5) Will provide consultation, act as liaison, and make the final determination on action to be taken by the Department of Justice and its agencies in cases where agreement cannot be reached between the undertaking agency and the Advisory Council on Historic Preservation, Department of the Interior, or General Services Administration.

(b) *Heads of Offices, Bureaus, and Divisions.*

(1) Responsible for preparing program specific guidelines where necesaary to comply with the Act and for updating these procedures as required.

(2) Will maintain general supervision over any undertaking within the agency potentially affecting cultural resoruces to ensure that the policy considerations and procedural requrements contained herein are followed in the planning process.

(3) Will designate the agency official who will have a specific responsibility for compliance with the Act.

(4) Will locate and inventory all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places, for nomination to the Secretary of the Interior.

(5) Will notify the Assistant Attorney General, Land and Natural Resources Division, whenever agreement cannot be reached between the undertaking agency and the Advisory Council on Historic Preservation, Department of the Interior, or General Services Administration.

§ 62.6 Identification of National Register or eligible properties.

(a) *Inventory of Cultural Resources Pursuant to Executive Order 11593 § 2(a).* The responsible officials of components of the Department of Justice which own or control property shall, in consultation with the appropriate State Historic Preservation Officers, locate, inventory and nominate to the Secretary of the Interior all sites, buildings, districts and objects under their jurisdiction or control that appear to qualify for listing on the National Register. Procedures set forth at § 62.6(b) below shall be followed. The inventory shall then be submitted to the Assistant Attorney General, Land and Natural Resources Division. This is an ongoing responisiblity subject to new acquisitions and reappraisals of the historic import of any existing properties. The inventory should be carried out regardless of whether there is a specific undertaking requiring compliance under § 106 of the National Historic Preservation act.

(b) *Identification of Cultural Resources in Response to a Specific Undertaking Pursuant to Section 106 of the National Historic Preservation Act.* The responsible agency official, in consultation with the SHPO, shall identify or cause to be identified any National Register or eligible property that is located within the area of the undertaking's potential environmental impact. The SHPO is to respond to requests for consultation within 30 days. This inventory should be carried out with other resources inventories required by NEPA. The identification of these cultural resources is the ultimate responsibility of the agency official and cannot be delegated, even when the undertaking is a grant, license, or permit.

(1) *National Register Criteria.* (36 CFR 60.6). The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects of state, local, regional and national importance that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

(i) That are associated with events that have made a significant contribution to the broad patterns of our history;

(ii) That are associated with the lives of persons significant in our past:

(iii) That embody the distinctive characteristics of a type, period, or that represent the work of a master or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(iv) That have yielded, or may be likely to yield, information in prehistory or history.

(2) *Criteria Considerations.* Ordinarily, cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(i) A religious property deriving primary significance from architectural value, or which is the surviving structure most importantly associated with a historic person or event;

(ii) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event;

(iii) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life;

(iv) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

(v) A resconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

(vi) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance;

(vii) A property achieving significance within the past 50 years if it is of exceptional importance;

(viii) Properties important in the history of the Department of Justice.

(3) *Search of Existing Records.* The responsible agency official shall consult the National Register of Historic Places. As appropriate, public records and individuals and organizations with cultural or historical expertise should be contacted to determine known cultural resources and the likely distribution of undiscovered cultural resources within the area.

(4) *Field Survey.* Once the known data have been collected, the responsible agency official shall evaluate them to determine what further investigations are required. Such investigations may include a professional cultural resource field survey of all or parts of the environmental impact area if the area has not been adequately surveyed previously. Intensity of survey shall be based upon reasonable effort, considering:

(i) The nature of the undertaking;

(ii) Types of resources potentially involved;

(iii) Likelihood of encountering National Register or eligible properties in the impact area;

(iv) The level of federal involvement in the undertaking;

(v) Recommendations of SHPO. The recommendations of the SHPO should be followed in this matter. Any number of governmental or private organizations may be consulted or engaged to conduct the survey, provided that the minimum professional qualifications set forth at 36 CFR 1201.5 are met. Likely sources of assistance are the SHPO, the Interagency Archeological Services Division (IAS) of Interior's Office of Archeology and Historic Preservation (OAHP), local universities, local historical or archeological societies, and organizations of professional archeologists.

(5) *Decision Regarding Eligibility by the Responsible Agency Official with SHPO Consultation.* Unless otherwise agreed upon, the SHPO is to respond to a request by the responsible agency official for consultation within 30 days. If the SHPO fails to respond within 30 days, the responsible agency official may proceed with the review process.

(i) *Agreement that no identified property meets the criteria.* If the responsible agency official and SHPO agree that no identified property meets the eligibility criteria, the responsible agency official shall document this determination in the environmental assessment (EA) or environmental impact statement (EIS). The undertaking may proceed.

(ii) *Agreement that identified property meets the criteria.* If the responsible agency official and the SHPO agree that a property is eligible they shall document this in the EA or EIS, submit complete documentation for request for determination of eligibility to the Secretary of the Interior, (36 CFR 60.10, Part 1204) and proceed with the compliance procedures to protect the eligible property.

(iii) *Disagreement that identified property meets the criteria.* If the responsible agency official and the SHPO disagree regarding a property's eligiblity, the responsible agency official shall submit a request for determination of eligibility directly to the Secretary of the Interior including a copy of SHPO's opinion in accordance with procedures described in 36 CFR Part 1204. The Department of the Interior must respond within 45 days of receipt of adequate documentation. The opinion of the Secretary shall be conclusive.

§ 62.7 Public participation.

Public participation, an important part of planning, shall begin at the earliest stages and continue throughout the planning process. Public involvement shall be carried out simultaneously to meet the requirements of cultural resource protection, National Environmental Policy Act (NEPA) compliance, floodplain and wetlands protection (Executive Orders 11988 and 11990), protection of threatened or endangered species, and the American Indian Religious Freedom Act. The intent is to provide sufficient information early enough in the decisionmaking process so that the public has the opportunity to be meaningfully involved. Procedures set forth at 36 CFR 800.15 should be followed.

§ 62.8 Determination of effect.

For each National Register or eligible property located within the area of the undertaking's potential environmental impact, the responsible agency official in consultation with the SHPO, shall determine whether the undertaking will affect cultural resources. Effect occurs when any condition of the undertaking causes or may cause any change, either beneficial or adverse, in the quality of a property that qualifies it for inclusion in the National Register. The responsible agency official shall seek to identify both beneficial and adverse effects, which may be actual or potential, direct or indirect, or short- or long-term in nature. All potential effects shall be considered in arriving at a determination of total effect. The responsible agency official shall submit an opinion on the undertaking's effect on National Register or eligible properties to the SHPO for comment, and shall proceed as outlined below.

(a) *Criteria of Adverse Effect.* If effect is established, the responsible agency official shall apply the following criteria of adverse effect:

(1) Destruction or alteration of all or part of a property;

(2) Isolation from or alteration of its surrounding environment;

(3) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;

(4) Transfer or sale of a federally owned property without adequate conditions or restrictions regarding preservation, maintenance, or use;

(5) Neglect of a property resulting in its deterioration or destruction.

(b) *Determination of No Effect.* If the responsible agency official and SHPO agree that the undertaking will not affect the qualities for listing in the National Register of any property present in the area of the undertaking's potential environmental impact, this determination shall be documented in the EA or EIS. A copy of the SHPO's comments shall be included in the report. The undertaking may proceed. If the SHPO objects to an agency

determination of no effect and gives timely notice or if other timely objection is made to the Executive Director of the Council, the Executive Director must review the determination within 15 days.

(c) *Determination of Beneficial Effect.* If the responsible agency official and SHPO agree that the action will enhance the qualities of the property that qualify it for inclusion in the National Register, the responsible agency official will proceed as in a determination of no adverse effect.

(d) *Determination of No Adverse Effect.* If the responsible agency official and the SHPO agree that the effect of the undertaking on the significant qualities of National Register or eligible properties will not be adverse, the responsible agency official shall submit appropriate documentation on this determination to the ACHP.

(1) *Documentation of No Adverse Effect.* This will include a copy of the EA or EIS if available for review with a cover letter requesting Council comment under Section 106 of the National Historic Preservation Act. The ACHP must notify the responsible agency official within 15 days if documentation is not complete, must respond within 30 days of receipt of adequate documentation. Documentation shall include the information specified at 36 CFR 800.13(a).

(2) *Data Recovery as No Adverse Effect.* In circumstances where a property (generally an archeological site) is significant primarily because it has yielded, or may be likely to yield, information important in prehistory or history, data recovery may, under some circumstances, be considered to have no adverse effect on the property. In such cases, the following ACHP guidelines for no adverse effect should be used.

(i) Disturbance of such resources should be avoided wherever possible;

(ii) Data recovery may be appropriate, however, when properties are primarily significant for the data they contain and when this data can be retrieved in accordance with professional standards;

(iii) The goal of archeological data recovery must be to obtain the greatest amount of archeological data for the least amount of archeological resource destruction;

(iv) In place preservation of archeological resources should be examined as a cost-effective alternative to data recovery;

(v) Methods destructive to data or injurious to the natural features of the property should not be employed if nondestructive methods are feasible. Specific criteria and requirements for making a determination of no adverse effect for data recovery of archeological resources are set forth at § 62.15.

(3) *Council Response.* If the ACHP does not object to the determination of no adverse effect, if the ACHP objects but offers conditions which are accepted by the responsible agency official, or if the ACHP does not respond within 30 days after receipt of an adequately documented determination, the agency official shall document this concurrence in the EA or EIS, with copies of the SHPO's comments and ACHP's comments. The undertaking may proceed. Either the SHPO or the ACHP may object to the determination of no adverse effect, specifying the basis for their objection with documentation of professional evaluation. If the SHPO does not agree with a determination of no adverse effect, or if the ACHP objects to the determination within 30 days of notification, the responsible agency official shall proceed as for a determination of adverse effect.

(e) *Determination of Adverse Effect.* If the responsible agency official and the SHPO determine that the undertaking will have an adverse effect on qualities that make a property eligible for the National Register, and if no suitable alternative is available which would avoid the potential to adversely impact the resources present, the responsible agency shall notify the ACHP of this determination and proceed with identification of alternatives and mitigation measures. The public shall be notified of the potential for adverse effect on National Register or eligible properties through circulation of the EA or EIS, or through other notification as deemed appropriate by the responsible agency official. Until the consultation process is completed, no action shall be taken that could result in adverse effect to the properties under consideration or that would foreclose the consideration of modifications or alternatives to the proposed undertaking that could avoid, mitigate, or minimize potential adverse effects.

§ 62.9 Identification of alternatives and mitigation measures.

(a) *Alternatives.* The responsible agency official shall identify alternatives which would avoid or reduce the potential for adverse effect. Alternatives shall include, but not be limited to:

(1) Relocating the undertakings;

(2) Alternative design plans, or concepts;

(3) Alternative undertakings which would accomplish similar objectives;

(4) Abandonment of the undertaking.

(b) *Mitigation Measures.* For the proposed undertaking and for each alternative identified which involves potential for adverse effect, the responsible agency official shall seek to develop mitigation measures to further minimize the potential to do harm. Examples include, but are not limited to:

(1) Limiting the size or scale of the undertaking and alternatives;

(2) Modifying certain aspects or details of the undertaking and alternatives through redesign, reorientation, or alteration of construction methods;

(3) Monitoring the undertaking to minimize potential for direct adverse impact;

(4) Rectifying potentially adverse effects by providing for repair, rehabilitation, or restoration of the affected resources and providing for continued preservation and maintenance;

(5) Compensating for potentially adverse effects through data recovery and preservation of scientific, prehistoric, historic and archeological data.

§ 62.10 Submission of preliminary case report.

In those cases where it is determined that there are National Register or eligible properties which may be adversely affected by an agency undertaking, the responsible agency official shall compile the required documentation for a Preliminary Case Report. Documentation shall include all information specified at 36 CFR 800.13(b). The Preliminary Case Report shall be submitted to the ACHP with a request for review and comment. A copy of the report and request for ACHP comments shall be forwarded to the SHPO. The responsible agency official will provide the ACHP with copies of all environmental impact statements (EIS) prepared pursuant to NEPA. All information required for the Preliminary Case Report may be included in the EIS. If the EIS is being submitted as the Preliminary Case Report, a cover letter shall be attached indicating that the EIS constitutes a request for Council comment under Section 106 of the NHPA.

§ 62.11 Consultation process.

As part of the consultation process, the responsible agency official, the Advisory Council, or the SHPO may request an on-site inspection or public meeting (36 CFR 800.6(b)). The public shall be informed of a public meeting by appropriate notice generally at least 15 days before the meeting.

(a) *Agreement on Alternatives or Mitigation Measures—Memorandum of Agreement.* If agreement can be reached on an acceptable alternative or on mitigation measures to minimize the adverse effect of the proposed undertaking, or if all consulting parties agree that it is in the public interest to accept the adverse effect, the responsible agency official shall prepare a proposal for a Memorandum of Agreement (MOA), and participate with the ACHP, SHPO, and other interested parties as appropriate, in its execution. The Chairman of the ACHP has 30 days within which to either sign the MOA or refer it to the full Council. If the Chairman does not sign within the time period, the agreement becomes final upon the expiration of the 30-day period. The MOA shall be included in the final EIS report and the undertaking may proceed. Failure to carry out the stipulations of an MOA requires the agency to return to the Council for comment as if there had been no agreement.

(b) *Disagreement on Alternatives or Mitigation Measures.* If agreement cannot be reached, the responsible agency official shall immediately consult with the Assistant Attorney General, Land and Natural Resources Division. The Chairman of the ACHP may refer the matter to the full Council, a panel of five Council members, or he may decline to refer to either Council or panel. The Chairman of the ACHP must make a decision about the kind of meeting to be held within 30 days after a failure to agree.

(1) The agency official responsible for the undertaking shall:

(i) Prepare the final case report which shall include all information specified at 36 CFR 800.13(c)(2);

(ii) Arrange for the submission and presentation of any report by a grantee, permittee, or other party receiving Federal assistance or approval to carry out the undertaking;

(iii) Prepare an oral statement for the meeting.

(2) If a panel meeting is selected, the panel must be convened within 30-days after the decision is made.

(3) If a full Council meeting is selected, the Council will consider the undertaking at the next regularly scheduled meeting. In exceptional cases, the Chairman may schedule the matter for consideration at a special meeting of the full Council to be held less than 60 days from the date of the decision.

(4) The Advisory Council must submit written comments to the agency responsible for the undertaking within 15 days after a meeting, and will forward the comments to the President and Congress as a special report.

(5) If, after receipt of the panel's comments, the Assistant Attorney General, Land and Natural Resources Division, in consultation with the responsible agency official, decides not to follow them, the responsible agency official shall immediately provide written notice of this decision to the Council. The Chairman may convene a meeting of the full Council to consider the matter within 30 days of the receipt of such notice. During this time, the agency may not proceed with the undertaking.

§ 62.12 Agency decision.

The Assistant Attorney General, Land and Natural Resources Division, in consultation with the responsible agency official, shall take the Council's comments into account in reaching a decision on the undertaking. When a final decision is reached, the agency official shall submit a written report to the ACHP, which will include:

(a) The actions taken by the agency in response to the Council's comments;

(b) The actions taken by other parties pursuant to the actions of the agency; and

(c) The effects that such actions will have on the affected National Register or eligible property.

Receipt of this report by the ACHP shall be evidence that the Department of Justice has satisfied its responsibilities for the proposed undertaking. The undertaking may proceed if that is the decision of the agency.

§ 62.13 Implementation of mitigation measures.

The responsible agency official shall ensure that all mitigation measures agreed to during the consultation process are funded and properly carried out, at least concurrently and proportionally with other elements of the undertaking. Mitigation measures involving data recovery shall be carried out in accordance with the Historical and Archeological Data Preservation Act of 1974. Within 90 days after carrying out the terms of the MOA, the responsible agency official shall report to all signatories of the MOA on the actions taken.

§ 62.14 Resources discovered during construction.

If, following completion of inventory and all other compliance responsibilities and initiation of the undertaking, previously unidentified cultural resources are identified which will be adversely impacted by the undertaking, the responsible agency official may elect to follow one of the two expedited procedures outlined below. If these procedures are not followed, the responsible agency official shall proceed with ACHP compliance procedures set forth above.

(a) *Procedure.* (1) To the maximum extent possible, the responsible agency official shall redirect work on the undertaking so that it will not impact the resources. Contracts and agreements authorizing projects which will be performed by other than Department of Justice employees should contain a clause requiring that the project be halted or redirected in the event that cultural resources are discovered. Other work or work in areas that will not effect the resource may continue.

(2) The responsible agency official shall immediately obtain from an appropriate cultural resource specialist an evaluation of the significance of the site and determination of potential impacts to eligible properties.

(3) The responsible agency official shall immediately initiate consultation with the SHPO regarding eligibility of the site to meet the National Register criteria. Such consultation should be initiated by telephone or in person, and documented in writing.

(i) If both agree that the site is not eligible, they shall document that decision. The undertaking may proceed.

(ii) If one or both considers the site eligible, that determination shall be documented and a formal request for Determination of Eligibility immediately sent to the Secretary of the Interior. The responsible agency official should proceed with protection and mitigation as if the site had been determined eligible.

(4) The responsible agency official shall consult with the Secretary of the Interior and comply with the requirements of the Archeological and Historic Preservation Act (16 U.S.C. 469(a)) as implemented by the Secretary.

(5) Unless the Secretary of the Interior determines that the significance of the property, the effect, and any proposed mitigation warrant Council consideration, compliance with the requirements of the Archeological and Historic Preservation Act will fulfill Department of Justice responsibilities under Section 106 in such cases.

(6) If the Secretary determines that the undertaking warrants Council consideration, the Council shall comment within 30 days pursuant to 36 CFR 800.7(b).

§ 62.15 Data recovery of archeological resources as no adverse effect.

Archeological properties included in or eligible for inclusion in the National

Register of Historic Places are generally nominated under National Register Criterion "d" (36 CFR Part 60.6) which states that a property may qualify if it has "yielded, or may be likely to yield, information important in prehistory or history." While disturbance of archeological properties should be avoided, under certain circumstances, properties primarily significant for the data they contain can be said to realize their significance when this data is retrieved in an appropriate manner. The responsible agency official, in consultation with the SHPO, shall apply the criteria set forth at § 62.15(a) below. If these criteria are not met, the agency official shall proceed as in a determination of adverse effect (§ 62.8(e)). If the criteria are met, the agency official may issue a determination of no adverse effect for any data recovery program conducted in accordance with the requirements set forth at § 62.15(b) below. Documentation that the criteria and requirements have been met, along with the comments of the SHPO, shall be forwarded to the Council for review.

(a) *Criteria for Decision to Consider Excavation as Not Adversely Effecting a Cultural Property.*

(1) The property is not a National Historic Landmark, a National Historic Site in non-federal ownership, or a property of national historical significance so designated within National Park Service;

(2) The SHPO has determined that in-place preservation of the property is not necessary to fulfill purposes set forth in the State Historic Preservation Plan;

(3) The SHPO and the responsible agency official agree that the property has minimal value as an exhibit in place for public understanding and enjoyment;

(4) The SHPO and the responsible agency official agree that, above and beyond its scientific value, the property is not known to have historic or cultural significance to a community, ethnic, or social group that would be impaired by the retrieval of data;

(5) The SHPO and the responsible agency official agree that currently available technology is such that the significant information contained in the property can be retrieved;

(6) Funds and time have been committed to adequately retrieve the data.

(b) *Data Recovery Requirements.* (1) Data recovery will be conducted under the supervision of a professional archeologist who meets the qualifications set forth in 36 CFR 1201.5.

(2) Data recovery and analysis programs should be conducted in accordance with a professionally adequate recovery plan (research design).

(i) The plan shall be prepared by a cultural resource specialist approved by the responsible agency official.

(ii) The plan shall include a definite set of research objectives (taking into account previous relevant research) to be met in analysis of the data to be recovered.

(iii) The plan shall provide for recovery of a usuable sample of data of significant research topics that can reasonably be addressed using the property, or a justification for collecting data on a smaller range of topics.

(iv) The plan shall specify the field and laboratory methods and techniques to be used for recovery of the data contained in the property. Methods destructive of data or injurious to the natural features of the property should not be employed if non-destructive methods are feasible.

(3) The data recovery and analysis programs should provide for adequate personnel, facilities, and equipment to fully implement the recovery plan.

(4) Adequate provision must be made for modification of the data recovery and analysis plan to accommodate unforeseen discoveries or other unexpected circumstances.

(5) The data recovery and analysis programs will result in accurate and intelligble records of all field and laboratory observations and operations, including, but not limited to, excavation and recording techniques, stratigraphic and associational relationships, where appropriate, and significant environmental relationships.

(6) A date has been set for completion of the final report detailing the results. As a minimum, the report shall include:

(i) Introduction, including background on the project;

(ii) Environmental, ethnographic, historical and archeological background relevant to the project area;

(iii) Research objectives or design;

(iv) Description of the data recovery operations, both field and laboratory;

(v) An explanation of the data analysis;

(vi) A summary of the results. Include statements describing whether or not research objectives are met. Also, explain additional research objectives resulting from the study;

(vii) Graphic materials including maps, charts, tables, photographs and illustrations, as appropriate;

(viii) A list of references consulted and used. Copies of the final report shall be sent to the SHPO; the Chairman of the Department of Anthropology, Smithsonian Institution; the Chief, Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service; the State Archeologist and State Historian.

(7) Plans have been made for disposition of material recovered after it has been analyzed. All archeological material located on land controlled by the Department of Justice is the property of the federal government. The recommended professional treatment of recovered material is curation and storage of the artifacts at an institution that can properly insure their preservation and make them available for research and public view.

(8) Documentation of the condition and significance of the property after data recovery will be provided by the responsible agency official to the SHPO and the National Register for appropriate action (including nomination, boundary change, or removal of National Register or eligibility status in accordance with National Register procedures).

§ 62.16 Coordination with the National Environmental Policy Act.

The National Environmental Policy Act (NEPA) states that it is a continuing responsibility of the federal government to act so that the nation may "preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice." Cultural resource review requirements under Section 106 of the National Historic Preservation Act shall be integrated to the maximum extent possible with other environmental considerations under the National Environmental Policy Act to ensure that historic and cultural properties are given proper consideration in the preparation of environmental assessments and environmental impact statements. The Council on Environmental Quality's guidelines for the preparation of environmental impact statements (40 CFR 1500.9(a)) states in part:

> To the extent possible, statements or findings concerning environmental impact required by other statutes, such as . . . Section 106 of the National Historic Preservation Act of 1966, should be combined with compliance with the environmental impact statement requirements of Section 102(2)(C) of [NEPA] to yield a single document which meets all applicable requirements.

The draft environmental impact statement may serve as the Preliminary Case Report for Section 106 (§ 62.10) and the outcome of the Section 106 process should be set forth in the final environmental impact statement. However, Section 106 compliance

procedures must be completed for National Register or National Register eligible properties even if an environmental impact statement is not required by NEPA. The threshold for compliance with Section 106 and the Executive Order is less than for preparation of an environmental impact statement. The former applies to any federal, federally assisted or federally licensed undertaking having an effect on a National Register or eligible property, while the latter extends only to major federal actions significantly affecting the environment. Advisory Council guidelines for coordination with requirements under the National Environmental Policy Act are set forth at 36 CFR 800.9.

§ 62.17 Coordination with the General Services Administration.

Most of the properties which the Department of Justice and its agencies occupy are owned or controlled by the General Services Administration (GSA). While according to Advisory Council procedures, GSA has primary responsibility for compliance with historic preservation requirements for these properties, the Department of Justice and its agencies will maintain a close working relationship with the GSA Historic Preservation Office on any joint undertaking. In addition to a National Historic Preservation Officer (NHPO) and his staff who are part of GSA's Public Buildings Service, there are ten Regional Historic Preservation Officers (RHPO) directly responsible for activities in each GSA region. The RHPOs determine the effect of projects on historic and cultural properties in accordance with the advisory Council's procedures. The responsible agency official will coordinate with the GSA RHPO during the early planning stages of proposed undertakings which may:

(a) Have an effect on a National Register or eligible property occupied by the Department of Justice but controlled by GSA;

(b) Have an effect on a National Register or eligible property controlled by the Department of Justice and which will involve any work by GSA;

(c) Involve applications to GSA for the disposition of any Department of Justice real property;

(d) Involve the nomination of any Department of Justice occupied property to the National Register of Historic Places.

§ 62.18 Exception.

The Department of Justice will make every effort to consider protection of cultural resources before undertaking any action which may affect these resources. However, actions carried out by the Department of Justice and its agencies in response to a clear and present threat to the public safety will not be subject to these regulations for the duration of the emergency.

James W. Moorman,

Assistant Attorney General, Land and National Resources Division.

[FR Doc. 80-17829 Filed 6-12-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSH-11]

Proposed Standard for Occupational Noise Exposure; Extension of Time for Comments

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

ACTION: Extension of time in which to submit comments on recently reopened noise record.

SUMMARY: On April 18, 1980, OSHA published in the **Federal Register** a notice that certain materials pertaining to the proposed noise standard had been added to the record (45 FR 26366–26367). Comments were requested by June 9, 1980. Several requests have been received to extend this comment period, in part because of difficulties some parties claim to have had in obtaining copies of the newly submitted documents. In order to accommodate the public, the comment period is hereby extended for an additional 20 days from the date of this notice.

Written comments and views as solicited in the April 18, 1980 **Federal Register** notice (45 FR 26366–26367) must be postmarked no later than July 3, 1980 and submitted in quadruplicate to the Docket Office, at the address below, where the entire record in this proceeding is available for inspection and copying.

DATES: Comments must be postmarked by July 3, 1980.

ADDRESS: Comments should be sent to: Docket Officer, Docket No. OSH–11, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Dr. Alice Suter, Office of Physcial Agents Standards, Occupational Safety and Health Administration, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue, Washington, D.C. 20210; telephone (202) 523–7151.

AUTHORITY: This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 11th day of June 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-18081 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 715, 716, 816, 817, and 826

Surface Coal Mining and Reclamation Operations Interim and Permanent Regulatory Program; Steep Slope Mining; Extension of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Extension of Public comment period.

SUMMARY: The public comment period for the proposed rules governing multiple seam mining operations within 30 CFR chapter VII, printed in the May 16, 1980, **Federal Register** (p. 32331), is hereby extended for an additional 15 days from the date of closing.

DATES: Comments are due on or before 5 p.m., E.S.T. June 30, 1980.

ADDRESS: Written comments must be mailed or hand delivered to Office of Surface Mining, Room 153 U.S. Department of the Interior, South Building, 1951 Constitution Avenue N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Physical Scientist, Office of Surface Mining, Room 114, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

SUPPLEMENTAL INFORMATION: The public comment period is being extended by 15 days to afford interested parties an additional opportunity to comment on topics which may be discussed at the Public hearing.

Dated: June 5, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

[FR Doc. 80-17940 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1513-1]

Approval and Promulgation of State Implementation Plans; Nonattainment Area Plans for Colorado

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: Effective May 2, 1980 (45 FR 16486 and 45 FR 21634), the carbon monoxide and ozone portions of the Colorado State Implementation Plan (ISP) were disapproved by the Environmental Protection Agency (EPA) because of the State's failure to adopt and submit an acceptable automobile exhaust emissions control program. The disapproval action invoked the stationary source construction restrictions required by Section 110(a)(2)(I) of the Clean Air Act. At the same time, EPA began exercising its authority under Sections 176(a) and 316 of the Act to withhold certain federal assistance from the affected nonattainment areas.

On May 29, 1980, the State submitted written evidence of the State's legal authority to implement and enforce an automobile emissions control program as well as schedules for implementing that program and a demonstration that it will achieve a 25% reduction in exhaust emissions by 1987. Today, EPA is proposing to approve this element of the SIP and remove the funding and construction restrictions which are currently in effect. EPA is requesting public comment on the appropriateness of this proposed action. Because of the potential economic impact of the funding and construction restrictions, EPA finds good cause, under 5 USC 552(d), to expedite the public comment period so that final action can be taken as quickly as possible.

DATE: Written comments should be submitted on or before June 27, 1980.

ADDRESSES: Copies of the SIP revision and any comments received are available at the following addresses for inspection:

Environmental Protection Agency Library, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295.

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

Written comments should be sent to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Mr. Robert DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 1979, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision in response to the requirements of Part D of the Clean Air Act (the "Act"), as amended in 1977. In general, the SIP is required to provide for the attainment and maintenance of the national ambient air quality standards for all areas which have been designated "non-attainment" pursuant to Section 107 of the Act. A critical portion of the control strategy for attainment and maintenance of the carbon monoxide and ozone standards, in portions of Colorado is the implementation of an inspection and maintenance program. "Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Non-complying vehicles can be prohibited from operating by requiring proof of compliance to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that State Implementation Plans which include nonattainment areas must meet certain criteria. These criteria have been discussed in detail in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20377 (April 4, 1979), and its various supplements, 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979). For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension up to 1987 may be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program . . ." In Colorado the areas which are required to have an I/M program are portions of Larimer, Weld, Adams, Arapahoe, and El Paso Counties, and the Counties of Denver, Boulder, Douglas, and Jefferson.

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372, 20373, n 6.) Although the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

Legal Authority. States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10).)

Commitment. The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)

Resources. The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)

Schedule. A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(b).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

Program Effectiveness. As set forth in the July 17, 1978, guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emissions projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states "the plan provisions . . . shall . . . provide for the implementation of all reasonably available control measures . . ."

Specific detailed requirements of these five provisions are discussed below:

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision-making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program.

selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of a plan." (Section 172(b)(10)) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B)) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of various I/M programs. These milestones were the general SIP requirement for compliance codified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control measures as expeditiously as practicable." (Section 172(b)(2)). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating. Mandatory programs in New Jersey and Arizona provide for a stringency of approximately 20%. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on the program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982, and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982, and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with a 20% stringency factor, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

In the October 5, 1979, final rulemaking on the Colorado SIP (44 FR 57401), EPA stated that the State of Colorado had satisfied the condition for an extension of the deadline for certification of adequate legal authority for a motor vehicle exhaust emissions control program. The reason for the extension was confusion during the 1979 legislative session over the approvability of the Bill under consideration. During the closing days of the 1979 Legislative Session, some of the legislators misunderstood whether EPA could approve the program established in Senate Bill 1 which included a commitment to study alternative approaches to controlling motor vehicle exhaust emissions and pass appropriate additional legislation by March 1, 1980, to meet requirements in the Clean Air Act. Senate Bill 1 also established a motor vehicle exhaust emissions control program which would go into effect automatically if the legislature did not adopt additional legislation by March 1, 1980. However, in the October 5, 1979, rulemaking EPA indicated that the program established in Senate Bill 1 was not acceptable and noted specific deficiencies (44 FR 57404–57405). EPA conditionally approved this element of the SIP with the provision that the State certify and submit to EPA by March 1, 1980, evidence of adequate legal authority for the required program and corrections to other deficiencies noted in the October 5, 1979, rulemaking. EPA also notified the public of its intention to impose the federal funding and new source constructions restrictions, authorized by Sections 176(a), 316, and 110(a)(2)(I) of the Act, if the State failed to comply with this condition.

On March 14, 1980 (45 FR 16486), the EPA published a final rule disapproving the carbon monoxide and ozone portions of the Colorado State Implementation Plan, thereby invoking the restrictions on construction of major new or modified stationary sources required by Section 110(a)(2)(I) of the Clean Air Act. In that rule, EPA also announced that it would begin exercising its authority under Section 176(a) and 316 of the Act to withhold certain federal assistance from the affected nonattainment areas.

These actions were based on the State of Colorado's failure to satisfy a condition of approval, i.e., failure to submit evidence of adequate legal authority to implement and enforce an acceptable automobile exhaust emissions control program by March 1, 1980. See 44 FR 57401 (October 5, 1979) and 45 FR 7801 (February 5, 1980). The final rule was to be effective on March 14, 1980.

On March 13, 1980, the United States Court of Appeals for the Tenth Circuit ordered that "enforcement by the EPA of all sanctions against the State of Colorado is stayed to and including May 1, 1980." Therefore, EPA amended the final rule to respond to the Court order, and stay the effective date of the action published on March 14, 1980, to May 2, 1980 (45 FR 21634).

On May 2, 1980, the State had not yet adopted legal authority for an automobile exhaust emissions control program. Therefore, the carbon monoxide and ozone portions of the SIP were disapproved and funding and construction restrictions became effective on that date.

State Submittal

On May 7, 1980, the legislature adopted the Bill which is the subject of this notice. On May 23, 1980, Governor Richard Lamm signed the Bill into law and on May 29, 1980, the State submitted the Bill to the EPA together with supporting documentation, including detailed schedules for implementation and a demonstration that the program will achieve a 25% reduction in exhaust emissions by 1987. The supporting documentation represents a commitment by the Departments of Health and Revenue to carry out and enforce the program, and the resources necessary to do so are also identified and committed. Therefore, we are proposing to approve Colorado's automobile exhaust emissions control program remedying the deficiencies noted in earlier rulemakings and elsewhere in this notice.

The law calls for annual emissions inspection for 1968 and later model year light-duty vehicles including light duty trucks in the Front Range area (basically Denver, Boulder, Colorado Springs, Fort Collins and Greeley). The Health Department will adopt emissions standards for each model year. Standards will be set so that at least 60 percent of 1968–1974 vehicles and at

least 70 percent of 1975 and later vehicles can meet the standards.

Cars will be tested using emissions analyzers. If they comply with the standards, they will be issued a certificate of emissions compliance. Model year 1968–1980 vehicles which fail to comply withe the standards at the time of testing will be adjusted to manufacturer's specifications and then retested. If they still fail to meet standards, they will be issued a certificate of emissions adjustment and no further repairs or maintenance will be required, unless emissions control devices have been altered, removed, disabled or rendered inoperative. Visual inspection of emission control devices will be performed. Owners of model year 1981 and later vehicles which fail to comply with standards at the time of testing will be required to repair their vehicles to meet standards, provided that at least $100 is expended on emissions related repairs. If these vehicles still fail to meet standards, they will be issued a certification of emissions adjustment.

The high altitude performance adjustments provided by Section 215 of the Clean Air Act will be included as part of the adjustments required.

The full program will begin on January 1, 1982, but a change of ownership and voluntary program will begin July 1, 1981. The provisions of the program requiring repairs on 1981 and later model year vehicles will begin July 1, 1982.

The emissions tests and adjustments will be conducted by trained mechanics. The mechanic training and licensing program will be run by the Department of Health and mechanics will have to pass a competency test before being licensed. The Department of Health will also administer an information program to insure public acceptance.

The Department of Health will insure quality control by:

(1) establishing specifications and standards for emissions analyzers and emissions analyzers to be used by inspection stations will have to be approved by the Department;

(2) checking and calibrating the analyzers on a regular basis;

(3) establishing procedures to be used in conducting inspections and performing adjustments; and

(4) periodically sending "unmarked" vehicles through inspection stations to evaluate program effectiveness.

The Department of Health will also continuously evaluate the effectiveness of the program and make annual recommendations to the Legislature regarding needed program improvements. The evaluation will focus particularly on whether a significant number of vehicles are failing to pass the retest after adjustments are made and developing alternative procedures to be followed for repairing 1981 and later vehicles which will not be adjustable and may require repairs or parts replacement to comply with the standards.

Enforcement of the program will be by the Department of Revenue through the safety inspection program. If a vehicle does not have a valid certificate of emissions control at the time of safety inspection, no safety inspection sticker may be issued and the vehicle will be prohibited from operating. Penalty provisions are included. The Department of Revenue will also administer a referee program.

Emissions standards for new vehicles sold at high altitudes have been proposed by EPA, effective with the 1982 model year. The existence of these standards will result in the Colorado I/M program enabling warranty coverage under Section 207(b) of the Clean Air Act. Properly maintained 1982 and later model year vehicles failing inspection will have engine components affecting emissions repaired at the expense of the vehicle manufacturer for the first two years or 24,000 miles. Emission control equipment will be covered for five years or 50,000 miles.

Proposed Action

EPA believes Colorado's law provides adequate legal authority to implement and enforce an automobile exhaust emissions control program beginning January 1, 1982. The law also represents a commitment to implement and enforce the program and identifies and commits adequate financial and manpower resources. EPA has also reviewed the detailed schedule provided by the State and finds its end date and interim milestones acceptable.

Finally, with respect to program effectiveness, the State has demonstrated the required 25% reduction in HC and CO light-duty vehicle exhaust emissions in 1987. Much of this emission reduction will come from the inspection and maintenance program for 1981 and later models, which features a 30% stringency with full mechanic training. EPA is concerned abut the effectiveness of the adopted adjustment program for pre-1981 models, especially the lack of a substantive requirement to pass the retest. Should the first annual program evaluation indicate a substantial number of these models are failing to pass the retest, compliance with the 25% requirement will be in jeopardy, and the State will have to revise the program accordingly.

As the preceding discussion explains, EPA finds the submittal acceptable and, therefore, is proposing to approve it for inclusion in the Colorado State Implementation Plan. Likewise, EPA is proposing to remove the limitations on federal assistance which were imposed under Section 176(c) and 316 of the Act as well as lift the construction ban imposed under Section 110(a)(2)(I) of the Act.

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

This rulemaking action is issued under the authority of Sections 110, 176, and 316 of the Clean Air Act, as amended.

Dated: June 2, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-17886 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1514-8]

Approval and Promulgation of Implementation Plans; Utah SO_2 Control Strategy

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes to reinstate the EPA sulfur dioxide (SO_2) emission limitation (6030 pounds per hour) and proposes to amend the fugitive emissions requirements, compliance schedules and emissions testing requirements applicable to the Kennecott Copper Corporation smelter in Utah. The proposed action would establish a final compliance date not later than December 31, 1982, and provide the smelter the opportunity to demonstrate its eligibility for a primary nonferrous smelter order.

DATE: Written comments on the proposed action should be submitted on or before July 14, 1980.

ADDRESSES: Submit written comments, preferably in triplicate, to: Office of Regional Counsel, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80295.

Availability of supporting information: A docket (No. 8A-78-1) containing

information used by EPA in developing the proposed revision is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air & Hazardous Materials Division, 1860 Lincoln Street, Second Floor, Denver, Colorado 80295.

Environmental Protection Agency, Central Docket Section, 2903 B Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Marius J. Gedgaudas, Planning & Operations Section, Environmental Protection Agecny, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3711.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator of EPA approved, with specific exceptions, a State Implementation Plan (SIP) submitted by the State of Utah designed to ensure the attainment and maintenance of the national ambient air quality standards (NAAQS) in the State. On November 26, 1975 (40 CFR 54786), the Administrator promulgated sulfur dioxide (SO_2) regulations to correct deficiencies in the Utah plan. The regulations required the Kennecott Copper Corporation smelter in Utah to utilize best engineering techniques for the capture of fugitive SO_2 emissions and to limit stack emission of SO_2 to 6030 pounds per hour. The final date for achieving compliance with these requirements was July 31, 1977.

The emission limitation of 6030 pounds per hour was based on diffusion modeling. EPA believed that the emission limitation could be met through use of reasonably available control technology, which for the smelter was a new double contact sulfuric acid plant and upgrading of the existing single contact acid plants.

On December 12, 1975, Kennecott Copper Corporation filed a "Petition for Reconsideration" with EPA. The company claimed that:

1. The regulation would require substantial curtailment of operations and cause severe economic losses.

2. The regulation was premised upon erroneous assumptions contained in the technical support document.

3. No exemptions were granted from the emission limitation during malfunctions and routine maintenance.

4. The regulation relied on predicted concentrations for SO_2 at Lake Point which were lower than subsequent measurements made by Kennecott at the same site.

In subsequent meetings and correspondence with the company, EPA representatives reviewed and verified the ambient SO_2 data collected by Kennecott at Lake Point. EPA then responded to Kennecott's petition on December 3, 1976, informing the company that the existing SIP emission limitation for the smelter would be revised to reflect the new ambient data. In addition, EPA advised Kennecott that it would propose a revision permitting interim use of a supplementary control system, following the application of reasonably available control technology. EPA also informed Kennecott that a malfunction regulation would be published shortly. The malfunction regulation, addressing excess emissions due to startup, shutdown, and malfunctions was promulgated on April 27, 1977 (40 CFR 52.2325(e)).

Before proposal of the remaining SIP revisions, however, Congress enacted the Clean Air Act Amendments of 1977.Sections 119, 123, and 302(k) of the amended Act change the statutory requirements applicable to primary nonferrous smelters. Under the Clean Air Act of 1970 and the amended Act, Section 110(a)(2)(B) requires a SIP to include emission limitations and such other measures as are necessary to ensure attainment and maintenance of NAAQS. In Section 302(k), Congress has clarified the intention of the 1970 Act that emission limitations require use of constant emission reduction technoclogy. Specifically, Section 302(k) defines "Emission Limitation" as "requirement * * * on a continuous basis * * *." Under Section 123, the degree of emission limitation required for control of any air pollutant under an implementation plan may not be reduced to any extent by use of any dispersion technique, including stack heights in excess of good engineering practice and supplementary control systems, unless the stack height was in existence or the dispersion technique implemented before the enactment of the Clean Air Act of 1970. The degree of emission limitation required under Section 110(a)(2)(9B) is that amount needed to ensure that NAAQS are achieved. The provisions referenced above specifically require that SIP's ensure national standards are attained and maintained through use of constant control technology alone. Any use of dispersion in SIP's to meet national standards is prohibited, except as provided in Section 123.

In addition, in Section 119, Congress adopted a modified version of the interim control policy for primary nonferrous smelters set forth in EPA's stack height increase guideline on February 18, 1976 (41 FR 7450). Section 119 establishes a new enforcement mechanism, the primary nonferrous smelter order (NSO), which permits interim use of dispersion techniques by a smelter prior to compliance with its SO_2 emission limitation if several conditions are satisfied. If the smelter can demonstrate that it is unable to comply with its SIP emission limitation for SO_2 through use of control technology adequately demonstrated to be reasonably available, and it meets other requirements of Section 119 and applicable regulations,[1] the smelter may receive a NSO allowing it to use dispersion techniques and postponing final compliance with its SIP emission limitation for an initial period up to January 1, 1983. A second order, deferring compliance with SIP emission limitations up to January 1, 1988, may also be issued under certain conditions. The SIP SO^2 emission limitation is unchanged, howeyer, and the smelter remains responsible for ultimate compliance with the limitation through use of constant controls. If Kennecott believes that its smelter is unable to comply with the SO_2 emission limitation of 6030 pounds per hour, it may apply to the State or EPA for a NSO.

On the basis of the ambient air quality data submitted by Kennecott and the new requirement of the Clean Air Act, EPA proposed a revised SO_2 emission limitation of 3700 pounds per hour for the smelter on August 14, 1978 (43 FR 35953). Since the 1977 Amendments preclude use of dispersion as part of a SIP, EPA proposed only a constant emission limitation for the smelter.

A public hearing on the proposed revision was conducted in Salt Lake City, Utah, on September 27, 1978. At that hearing, Kennecott representatives repudiated the ambient monitoring data collected by the company at Lake Point. Kennecott claimed that the measured concentrations of SO_2 were greatly influenced by fugitive emissions resulting from malfunctions of the acid plants. EPA requested, and has received, documentation regarding the malfunctions from the company.

Lacking valid ambient data and using technical data provided by Kennecott, EPA used diffusion modeling to predict SO_2 concentrations at Lake Point for the present smelter configuration. With the Utah sulfur emission limitation of 3750 tons per month, concentrations

[1] EPA proposed NSO rules under Section 119 on January 31, 1979 (44 FR 6284). Final rules will be promulgated in the near future.

considerably greater than the 24-hour primary national standard of 365 $\mu g/m^3$ were estimated. However, as indicated in the technical support document EPA's current SO_2 emission limitation of 6030 pounds per hour, which was based on diffusion modeling for the smelter prior to its modification, is necessary to attain and maintain the 24-hour standard. Since the 1200-foot stack installed by Kennecott to replace the two 400-foot stacks previously used at the smelter does not result in an increase in allowable emissions for the area of maximum predicted ambient impact at Lake Point, EPA has determined that the new stack does not permit the use of dispersion enhancement in place of constant emission controls. Therefore, EPA is not undertaking a formal evaluation to determine if the new stack represents Good Engineering Practices under Section 123 of the Act. Consequently, EPA is withdrawing the 3700 pounds per hour SO_2 emission limitation proposal of 1978 and proposing to reinstate the emission limitation promulgated in 1975. In addition, EPA is proposing to amend the fugitive SO_2 emissions requirements for best engineering techniques to insure that all of the fugitive capture equipment currently installed at the smelter is operated and maintained properly. The proposed regulation describes these engineering techniques (primary and secondary hoods, vents, fans, ductwork, etc.) and requires Kennecott to submit to EPA a plan for their operation and maintenance.

EPA's November 26, 1975, SO_2 regulations set July 31, 1977, as the time for achievement of final compliance. Before July 31, 1977, however, EPA stipulated in connection with pending litigation that it intended to promulgate additional SO_2 regulations which might allow the use of a Supplementary Control System (SCS) and that, therefore, it would not enforce the existing SO_2 regulations during the interim.

As noted above, The Clean Air Act amendments of 1977 required SIP emission limitations to be achieved through the use of constant controls, but would permit a smelter which obtained an NSO under Section 119 to use SCS on an interim basis before achieving final compliance with its SO_2 emission limitations.

In light of these events, EPA has not enforced the November 26, 1975, SO_2 regulations. Since EPA has in effect tolled the compliance requirement before the date by which compliance was required in anticipation of the possible use of SCS, the agency believes that it is consistent with the intent of Congress in enacting Section 119 to amend the compliance date by the amount of time necessary after the promulgation of regulations under Section 119 to install the required control equipment. Accordingly, today's proposal would require Kennecott to meet its emission limitation as expeditiously as possible after the effective date of the NSO regulations. Since that date is imminent, EPA believes it can now propose an outside date for final compliance, and that such date should be no later than December 31, 1982. EPA chose the date December 31, 1982, because it believes that the expeditious installation and operation of the expected control equipment necessary to meet the emission limit proposed today can be accomplished by that date.

Finally, EPA is proposing to clarify the emission testing requirements applicable to the smelter. The proposed amendments, which are necessary to avoid potential misinterpretation of the current provisions, specify more clearly the continuous emission monitoring and stack testing criteria for determining compliance with the emission limitation, as well as the applicability of the two methods. Because of prior misunderstanding, the revised provisions include a specification for the normal smelter operating rate during manual testing. Recent EPA policies to apply more adequate quality assurance specifications for the emission monitoring equipment have also been included.

The technical support document containing the revised diffusion modeling and the basis for withdrawal of the proposed 3700 pound per hour emission limitation is included in the rulemaking docket.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Office of Regional Counsel, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80295. Public comments received by July 14, 1980 will be considered in developing the final rule. All comments will be available in the docket for public inspection.

EPA is also providing the opportunity for interested citizens to request a public hearing. Requests for a public hearing must be in writing and directed to U.S. EPA, Region VIII, Office of Regional Counsel, 1860 Lincoln Street, Denver, Colorado 80295. If there is sufficient interest, a public hearing will be scheduled. Requests for a hearing must be received by July 14, 1980.

This notice of proposed rulemaking is issued under the authority of sections 110, 114, and 301 of the Clean Air Act as amended (42 USC 7410, 7414, and 7601).

The Environmental Protection Agency had determined that this notice does not propose a significant regulation requiring a regulatory analysis under Executive Order 12044.

Dated: June 4, 1980

Roger Williams,

Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations, as follows:

Subpart TT—Utah

Section 52.2325, paragraphs (c) and (d) are revised to read as follows:

§ 52.2325 Control strategy: Sulfur oxides.

* * * * *

(c) *Regulation for control of fugitive sulfur oxides emissions (Wasatch Front Intrastate Region).* (1) The owner or operator of the Kennecott Copper Corporation smelter located in Salt Lake County, Utah, in the Wasatch Front Intrastate Region shall utilize best engineering techniques for reducing escape of pollutants to the atomosphere and to capture sulfur oxides emissions and vent them through a stack or stacks. Such techniques shall include, but not be limited to:

(i) Installing and operating primary hoods and slag and matte tapping port hoods on each active reactor;

(ii) Installing and operating primary and secondary hoods on each active convertor;

(iii) Installing and operating vents, fans, and ductwork in the ceiling above ach reactor and convertor aisle to capture emissions in the general building air;

(iv) Maintaining and operating to deisgn specifications, and in continuous and full use when the respective process unit(s) is (are) in operation, all mechanical parts, including but not limited to hoods, doors, dampers, fans, and their controls;

(v) Maintaining all ducts, flues, and stacks in a leakfree condition;

(vi) Maintaining all reactors and converters under normal operating conditions in such a fashion that out leakage of gases to the air will be prevented to the maximum extent possible;

(vii) Wherever possible, ducting emissions through the tallest stack or stacks serving the facility;

(viii) Wherever possible, passing the effluent from all hooding and ceiling vents through the tallest stack or stacks serving the facility; and

(ix) Minimizing exhaust of pollutants directly from any building opening.

(2) The owner or operator of the Kennecott Copper Corporation smelter shall, within sixty (60) days of the date of promulgation of this regulation, submit to the Director, Enforcement Division, Environmental Protection Agency (EPA), Region VIII, a plan for achieving and maintaining the best engineering techniques required in paragraph (c)(1) of this section. Such plan shall include as a minimum:

(i) Operation and maintenance specifications for the techniques listed in paragraph (c)(1) and for any building evacuation system not vented to a stack;

(ii) Analysis of best engineering techniques for capturing sulfur exides emissions at the feed end of each reactor;

(iii) Detailed plans and compliance schedules to achieve the best engineering techniques.

(3) Within ninety (90) days of receipt of the plan required in paragraph (c)(2) of this section, EPA, Region VIII, will evaluate it for effectiveness in reducing SO_2 emissions;

(i) If EPA finds that the plan is adequate, the approved plan, its requirements, and any compliance schedules therein, shall become a part of this regulation by incorporation;

(ii) If the plan is determined to be inadequate, EPA will provide notice to the smelter owner or operator and will promulgate a substitute plan within 120 days of such notice. Any such promulgated plan will be incorporated as a requirement of this regulation.

(4) Actions implemented by the smelter owner or operator under the plan developed under section (c)(2) (or promulgated under Section (c)(3)) of this section shall be reported monthly to the Director, Enforcement Division, EPA, Region VIII. Such report shall include, but not be limited to, the date and number of hours any of the fugitive collection and control devices were not operational and any actions taken to correct such problems and avoid their recurrence.

(d) *Regulation for control of sulfur oxides emissions (Wasatch Front Intrastate Region).* (1) The owner or operator of the Kennecott Copper Corporation smelter located in Salt Lake County, Utah, in the Wasatch Front Intrastate Region shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of 6030 pounds per hour (2735 kg/hr), maximum six-hour average as determined by either of the methods specified in subparagraph (4) of this paragraph. Such limitation shall apply to the main smelter stack which vents sulfur dioxide emissions from the smelter premises, but not including fugitive emissions not capable of capture by best engineering techniques. Sulfur trioxide and sulfuric acid mist are not to be counted against the sulfur dioxide emission limitation.

(2)(i) The owner or operator of the smelter subject to this paragraph shall, no later than thirty (30) days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with paragraph (d)(1) of this section as expeditiously as practicable, but not later than December 31, 1982.

(ii) The compliance schedule submitted to the Administrator pursuant to paragraph (d)(2)(i) of this section shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress and dates for achievement shall include, but not be limited to, the following:

(*a*) No later than two (2) months following the effective date of this paragraph—Submit a final control plan to the Administrator for meeting the requirements of paragraph (d)(1) of this section;

(*b*) No later than four (4) months following the effective date of this paragraph—Let necessary contracts or issue purchase orders for process and/or control equipment to be used to accomplish the required emission control;

(*c*) No later than six (6) months following the effective date of this paragraph—Initiate on-site construction or installation of emission control equipment and/or process modification;

(*d*) No later than November 30, 1982—Complete on-site construction or installation of emission control equipment and/or proces modification;

(*e*) No later than December 31, 1982—Achieve and demonstrate full compliance with the requirements of paragraph (d)(1) of this section.

(iii) The owner or operator of the smelter subject to the requirements of this paragraph shall certify to the Administrator within five (5) days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iv) Notice must be given to the Administrator at least sixty (60) days prior to conducting a performance test to afford him the opportunity to have observers present.

(v) A written report of the results of such performance evaluation test(s) shall be furnished to the Administrator within 30 days of the commencement of such test(s).

(vi) If the smelter subject to this paragraph is currently in compliance with the requirements of paragraph (d)(1) of this section, the owner or operator of such smelter shall certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. The Administrator may request whatever supporting information or demonstration of compliance he considers necessary to determine the validity of the certification.

(vii) Within thirty (30) days of the effective date of this paragraph, the owner or operator of any smelter subject to this paragraph may submit to the Administrator for approval a proposed alternative compliance schedule. Each such proposed compliance schedule shall demonstrate compliance with paragraph (d)(1) of this section as expeditiously as practicable. No such compliance schedule may provide for final compliance after December 31, 1982. If approved by the Administrator, such schedule shall replace the compliance schedule set forth in paragraph (d)(2)(ii) of this section.

(viii) Any compliance schedule submitted to the Administrator pursuant to paragraph (d)(2)(vii) of this section shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the increment specified in paragraph (d)(2)(ii) of this section.

(3)(i) The owner or operator of any smelter to which this paragraph is applicable shall install, calibrate, maintain, and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in the main smelter stack and in the outlet of each sulfur dioxide control facility. For the purpose of this paragraph, "continuous emission monitoring" means the taking and recording of at least one measurement of sulfur dioxide concentration and gas flow rate from the affected stack and the outlet of each sulfur dioxide control facility in each 15-minute period.

(ii) Within nine (9) months after the effective date of this paragraph, and at such other times in the future as the Administrator may specify, the sulfur dioxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part, as amended, or as amended in subparagraph (4) below. The system shall be evaluated in units of the standard. Accuracy should be

evaluated by conducting at least 3 two-hour manual type reference method tests for SO_2 and velocity during each of three sequential 9-hour test periods and calculated as prescribed in Appendices D and E, as amended, of this part.

(iii) Within nine (9) months after the effective date of this paragraph, and at such other times in the future as the Administrator may specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part, as amended, or as amended in subparagraph (4) below.

(iv) On-site analysis, results calculation, and preliminary results of SO_2 emission tests during all monitor certification and emission performance tests shall be available during testing unless demonstrated 30 days in advance to be an unnecessary hardship. Previous history of procedures does not constitute hardship.

(v) The Administrator shall be notified at least sixty (60) days in advance of the start of the field test period required in Appendices D and E to this part as amended to afford the Administrator the opportunity to have observers present.

(vi) Report of all measurement system evaluations must be submitted within 30 days after the commencement of such evaluation unless otherwise approved by the Administrator.

(vii) Continuous emission monitoring systems listed within this paragraph shall be re-evaluated at least once during any 12 calendar months and demonstrate acceptability of zero and calibration drift (2-hour), relative accuracy error, and calibration error of measurements contained in the applicable performance specification of Appendix D, as amended, or as prescribed by the Administrator. Reporting of such evaluation shall be within 30 days.

(viii) (*a*) The sampling point shall be located at least eight stack diameters (diameter measured at sampling point) downstream and two diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator.

(*b*) The sampling point for monitoring emissions shall be in the duct at the centroid (geometrically centered 1.0 percent area) of the cross section if the cross sectional area is less than 10.50 m^2 (113 ft^2) or at a point no closer to the wall than 1.898 m (6 ft) if the cross sectional area is 10.50 m^2 (113 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(ix) The measurement system(s) installed and used pursuant to this paragraph shall be subject to the manufactuer's recommended zero adjustment calibration procedures at least once per 24-hour operating period unless the manufactuer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration. Each existing and replacement span and zero gas cylinder shall be traceable to NBS, standard reference materials (SRM) through the use of EPA Protocol Number 1 for use in certifying values for compressed gas cylinders. Within 30 days after the commencement of use of such gas cylinders, the owner or operator shall submit to the administrator certification of traceability of cylinders using the indicated Protocol.

(x) The owner or operator of any smelter subject to this paragraph shall maintain a record of all measurements required by this paragraph. Measurement results shall be expressed as kilograms of sulfur dioxide emitted per hour, maximum 6-hour average, calculated as of the end of each clock hour for the preceding six hours, for each separate measurement system installed and operated pursuant to this paragraph. Results for each measurement system shall be summarized monthly and shall be submitted in a format acceptable to the administrator, to the Director, Enforcement Division, EPA, Region VIII, within fifteen (15) days after the end of each month. An example of an acceptable format is available upon request from the Director, Surveillance and Analysis Division, EPA, Region VIII. A record of such measurements shall be retained for at least two years following the date of such measurements. In addition, the monthly report shall include the following:

(*a*) The eight-hour production rate and associated production figures corresponding to all periods of excess emissions of SO_2.

(*b*) The weekly arithmetic average of seven daily zero and calibration check values for each week of the month for each calibration point (zero and upscale) for each monitor required, as computed according to Appendices D and E, of this part.

(*c*) Date, time, and initial calibration values of each required calibration adjustment or other adjustment made on any monitor during the month, including any time which the monitor was removed or otherwise inoperable for any reason.

(*d*) The date and results summary of each evaluation of any portion of the monitoring system during the month.

(*e*) The percent (%) of on-line availability time by week for each continuous emission monitoring modular part (component) as well as a description of component down time.

(*f*) All conversion values used to derive the 6-hour emission for SO_2 which include, but are not limited to: temperature, velocity of stack gases, moisture, parts per million (ppm), and production levels.

(xi) Each monitor modular part (i.e. SO_2, volumetric flow rate, and data recording and handling units) of a continuous emission monitoring system shall attain a minimal annual (the four quarters of a calendar year) on-line availability time of 85 percent. If the entire system fails to operate with this reliability, the operator must, with the first monthly report of the next year, explain in detail the reason(s) for this lack of performance.

(xii) The continuous emission monitoring and recordkeeping requirements of this paragraph shall become applicable nine (9) months after the effective date of this paragraph.

(4)(i) Compliance with the requirements of paragraph (d)(1) of this section shall be determined on a continuous basis using the emission measurement system(s) installed, calibrated, maintained, and operated in the main smelter stack in accordance with the requirements of paragraph (d)(3) of this section. For that stack equipped with the mesurement system required by paragraph (d)(3) of this section, a running 6-hour average sulfur dioxide emission rate shall be calculated as of the end of each clock hour, for the preceding six hours, in the following manner.

(a) Divide each 6-hour period into twenty-four 15 minutes segments.

(b) Determine the emission rate on a compatible basis from a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for the main smelter stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentration and stack gas flow rate measurements (from the affected stack) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration and stack gas flow readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings

shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period. The sulfur dioxide emission rate for each of the twenty-four segments for that stack shall be determined by multiplying the stack gas volumetric flow rate (m^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (kg/m^3 at standard conditions, dry basis).

(c) Calculate the arithmetic average of the 24 emission rates calculated for each 6-hour period for the stack. Calculations will be reported in kg SO_2/hr.

(ii) Notwithstanding the requirements of paragraph (d)(4)(i) of this section, compliance with the requirements of paragraph (d)(1) of this section may be determined for a specific period of time (i.e. only that time of the manual test) by using the methods described below at such times as may be specified by the Administrator. Any manual stack test conducted under this paragraph may be used both to evaluate current emission levels and to reevaluate the performance of the continuous emission monitor system(s) at that time. For the main smelter stack equipped with the measurement system(s) required by paragraph (d)(3) of this section, a 6-hour average sulfur dioxide emission rate (kg SO_2/hr) for a specific period of time, and/or when evaluating the accuracy of the continuous emission measurement system, shall be determined as follows:

(a) During testing of the stack emission rate the process shall burn fuels, use raw materials, feed air and oxygen, and maintain process conditions representative of maximum operating conditions, while fugitive emission capture systems are in compliance with the requirements of paragraph (c) and under such other conditions as the Administrator may specify. Given the processing units existing in February 1980 (three reactors, four convertors, etc.), those operating rates shall include, but not be limited to, at least the following: two reactors, at least two convertors, the molybdic oxide roaster, the boilers, and the super heaters, all in full operation, resulting in production of approximately 38 tons per hour of blister copper. Testing shall continue during those times when reactors and convertors are rolled out for normal tapping and charging, but shall be temporarily suspended during process upsets which result from abnormal occurrences. (If in the future the number of processing units or an operating parameter(s) should change, the operating rates specified above, or as may be otherwise specified by the Administrator, may be modified by EPA.) Testing shall not proceed during any time when emissions from any process unit are vented to another stack or emission points.

(b) Concentrations of sulfur dioxide in stack gases shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the overall test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be conducted during three 9-hour periods for the stack. During each 9-hour period three nonconcurrent tests, each of at least two hours of sampling time, concurrent with acceptable process operation, shall be conducted. All tests must be completed within a 72-hour period.

(d) In using Method 8, traversing shall, whenever possible, be conducted according to Method 1 as described in Part 60 of this chapter, or as otherwise prescribed by the Administrator. The minimum sampling volume for each 2-hour test shall be 1.133 m^3 (40 ft^3) corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from the stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and, whenever possible, by traversing according to Method 1, or as otherwise prescribed by the Administrator. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60, Appendix A, of this chapter.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each 2-hour test period, the sulfur dioxide emission rate for the stack shall be determined by multiplying the stack gas volumetric flow rate (m^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (kg/m^3 at standard conditions, dry basis). The emission rate in kg/hr maximum 6-hour average for the stack shall be determined by calculating the arithmetic average of the results of the three 2-hour tests conducted within a 9-hour period.

(h) The average emission rate from the three independent sets of measurements in kg/hr maximum 6-hour average for the stack is determined by calculating the arithmetic average of the 6-hour average values calculated pursuant to paragraph (d)(4)(ii)(*g*) of this section.

[FR Doc. 80-17889 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 112

[FRL 1512-7]

Water Programs; Oil Pollution Prevention; Nontransportation Related Onshore and Offshore Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: On May 8, 1980 the Environmental Protection Agency proposed a revision to its existing Oil Pollution Prevention Regulation (40 CFR Part 112). Notice of the proposed revision appeared in the Federal Register on Tuesday, May 20, 1980 (45 FR 33814). Due to an oversight that notice contained several errors in Sections 112.7 and 112.8. Today's notice provides corrections to those errors.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen F. Heare, Spill Prevention and Control Branch (WH-548), Division of Oil and Special Materials Control, Office of Water Program Operations, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 245-3057.

SUPPLEMENTARY INFORMATION:

Correction

(1) At page 33824, column 3, paragraph (e)(6) of § 112.7 the introductory paragraph should be changed to read: "(6) Oil or gas drilling, production, or workover facilities (offshore, except those located on the Outer Continental Shelf)."

(2) At page 33825, column 2, the section number for the undesignated bold face heading should read "§ 112.8".

Dated: June 4, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-17872 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

Office of Enforcement
40 CFR Part 173
[FRL 1514-6]

Pesticide Enforcement; Procedures Governing the Rescission of State Primary Enforcement Responsibility for Pesticide Use Violations; Notification to the Secretary of Agriculture of a Proposed Regulation

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

ACTION: Notification to the Secretary of Agriculture of a Proposed Regulation.

SUMMARY: Notice is hereby given, as required by Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 *et seq.*), as amended, that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed Procedures Governing the Rescission of State Primary Enforcement Responsibility for Pesticide Use Violations. The rule outlines procedural requirements applicable to proceedings to rescind a State's primary use enforcement responsibility conducted under Section 27(b) of FIFRA.

FOR FURTHER INFORMATION CONTACT: Laura Campbell (EN-342), Pesticides and Toxic Substances Enforcement Division, Office of Enforcement, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9404.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA states that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary, if requested, and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign such regulation for publication in the **Federal Register** any time after such 30 day period.

Pursuant to FIFRA section 25(a)(3), a copy of this proposed regulation has also been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate. This proposed regulation has also been submitted to the FIFRA Scientific Advisory Panel as required by section 25(d).

(Section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*)

Dated: June 6, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-17888 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1513-3; PP OE2285/P136]

Biological Agent Bacillus Thuringiensis, Berliner; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes an exemption from the requirement of a tolerance for residues of the microbial insecticide *Bacillus thuringiensis* Berliner on beeswax and honey. This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment to the regulation would obviate the need for a maximum permissible level for residues of *Bacillus thuringiensis* Berliner in or on beeswax and honey.

DATE: Written comments must be received on or before July 14, 1980.

ADDRESS: Send comments to: Patricia Critchlow, Office of Pesticide Programs, Room 107, East Tower, Registration Division (TS-767), Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Patricia Critchlow at the above address (202/426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted Pesticide Petition No. OE2285 to EPA on behalf of the IR-4 Technical Committee and the State Agricultural Experiment Stations. This petition requests that the Administrator propose that 40 CFR 180.1011 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the biological agent *Bacillus thuringiensis* Berliner in or on raw agricultural commodities beeswax and honey.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the proposed exemption in or on beeswax and honey were a 90-day rat oral feeding study with a no-observed-effect-level (NOEL) greater than 8.4 grams (gm)/kilogram (kg) of body weight (bw) and a 2-year rat oral feeding study with a NOEL of less than 8.4 gm/kg of bw, an acute oral LD_{50} in mice greater than 10 gm/kg of bw.

No actions are currently pending against contiuned registration of this chemical.

Ballicus thuringiensis Berliner is considered useful for the purpose which the tolerance exemption is sought. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The agency has determined that the proposed exemption from the requirement of a tolerance will protect the public health. Therefore it is concluded that the proposed amendment to 40 CFR Part 180 be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before July 14, 1980 that the rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number "PP OE2285/P136". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Patricia Critchlow, Room 107, East Tower, from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of the Executive Order 12044.

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

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

It is proposed that Part 180, Subpart C, § 180.1011 be amended by revising paragraph (b) to read as follows:

§ 180.1011 Viable spores of the microorganism Bacillus thuringiensis Berliner; exemption from the requirement of a tolerance

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus thuringiensis* Berliner, as specified in paragraph (a) of this section, in or on beeswax and honey and all other raw agricultural commodities when it is applied either to growing crops, or when it is applied after harvest in accordance with good agricultural practices.

* * * * *

[FR Doc. 80-17887 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-245; RM-2762; RM-2785; RM-2787; RM-2886; RM-2901; RM-3033; RM-3255; RM-3480]

FM Broadcast Stations in Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge and West Memphis, Ark.; Portageville, Mo. and Collierville, Tenn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes to amend the FM Table of Assignments of the Commission's Rules (Section 73.202(b)), in accordance with one of seven alternative plans, involving assignments of FM channels to the communities of Blytheville, Trumann, Jonesboro, Paragould, Piggott, Walnut Ridge and West Memphis, Arkansas; Portageville, Missouri; and Collierville, Tennessee. Petitioners are Jim Southard, Cecil Poff and Solan Lott (Blytheville); MBS Communications Corporation (Jonesboro); KDRS, Inc. (Paragould); Guy Brinkley, George Cook and Rex Watson (Piggott); Cate Communications Corporation (Trumann); Christian Studies of Man and Society, and Crusade for Christ, Inc. (West Memphis); and Albert L. Crain (Collierville). The assignments proposed herein could provide a first local FM service to Piggot, Trumann, West Memphis and Collierville; a second FM service to Blytheville and Paragould; and a third FM service to Jonesboro.

DATES: Comments must be filed on or before August 1, 1980, and reply comments mut be filed on or before August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Molly Pauker, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

Adopted: May 29, 1980.

Released: June 10, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it the following petitions, seeking amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules), as it related to the above-referenced communities:

(a) Jim Southard, Cecil Poff and Solan Lott ("SPL"), of Blytheville, Arkansas, seek assignment of Channel 293 to Blytheville, Arkansas, as that community's second FM assignment. This would require the substitution of Channel 261A for Channel 292A (Station KCAZ) in Walnut Ridge, Arkansas, and the substitution of Channel 288A for Channel 292A (Station KMIS-FM) in Portageville, Missouri (RM-2762);[1]

(b) Christian Studies of Man and Society ("Christian"), of Memphis, Tennessee, seeks assignment of Channel 296A to West Memphis, Arkansas, as its first FM assignment (RM-2787);[2]

(c) Crusade for Christ, Inc. ("Crusade"), of Norfolk, Virginia, also seeks assignment of Channel 296A to West Memphis, Arkansas (RM-2785);[3]

(d) Guy Brinkley, George Cook and Rex Watson ("BCW"), of Piggott, Arkansas, seek assignment of Channel 288A to Piggott, Arkansas, as that community's first local aural service (RM-2886);[4]

(e) Albert L. Crain ("Crain") of Collierville, Tennessee, licensee of daytime-only AM Station WMSO (1590 kHz), seeks assignment of Channel 296A to Collierville, Tennessee, as that community's first FM assignment (RM-2901);[5]

(f) Cate Communications Corporation ("Cate"), of Trumann, Arkansas, seeks assignment of Channel 296A to Trumann, Arkansas, as its first FM assignment (RM-3033); [6]

(g) KDRS, Inc. ("KDRS"), of Paragould, Arkansas, licensee of KDRS(AM), Paragould, Arkansas, seeks assignment of Channel 261A or 296A to Paragould, as its second FM assignment (RM-3255); [7] and

(h) MSB Communications Corporation ("MSB"), of Jonesboro, Arkansas, seeks assignment of Channel 261A to Jonesboro, Arkansas, as that community's third commercial FM assignment (RM-3480).[8]

Since short spacings would render various combinations of these proposals mutually exclusive, the above-mentioned petitions are considered jointly herein.[9]

2. Blytheville, Arkansas (pop. 24,752),[10] county seat of Mississippi County (pop. 62,060), is in northeastern Arkansas, approximately 96 kilometers (60 miles) north of Memphis, Tennessee, and 304 kilometers (190 miles) south of St. Louis, Missouri. Blytheville is currently served locally by Station KHLS (Channel 241C) and daytime-only AM Station KLCN (910 KHz). SPL states that Blytheville's principal industry is agriculture, including cotton, soybeans and wheat, along with various manufacturing plants. SPL has submitted a number of letters from community leaders in support. SPL also states that Blytheville's current population and rapid growth justify a second FM assignment to that community. SPL has affirmed its intent to apply for Channel 293, if assigned to Blytheville. With the proposed substitutions at Walnut Ridge and Portageville and assuming no conflicting assignment is made as a result of the instant proceeding, Channel 293 can be assigned to Blytheville in compliance with the minimum distance separation requirements, at a site between approximately 19 and 27 kilometers (12 and 17 miles) north of Blytheville. Petitioner has expressed interest in a site approximately 29 kilometers (18 miles) north northwest of Blytheville.[11]

[1] Public Notice was given on October 18, 1976, Report No. 1009.

[2] Public Notice was given on November 12, 1976, Report No. 1016.

[3] Public Notice was given on November 12, 1976, Report No. 1016.

[4] Public Notice was given on May 17, 1977, Report No. 1047.

[5] Public Notice was given on June 15, 1977, Report No. 1053.

[6] Public Notice was given on January 19, 1978, Report No. 1096.

[7] Public Notice was given on December 6, 1978, Report No. 1154.

[8] Public Notice was given on September 19, 1978, Report No. 1192.

[9] On the motion of Communications Systems, Inc. ("CSI"), to which the Commission assented, the Blytheville petition has been held in abeyance, pending appeal of a rule making which would have required a mutually exclusive substitute assignment at Portageville (Channel 224A instead of Channel 288A). See *Cape Girardeau, Missouri, et al.*, 51 F.C.C. 2d 492 (1975); 54 F.C.C. 2d 896 (1975) (*recons. denied*) and *Caruthersville, Missouri, et al.*, (RM-2756) *FCC* No. 77-515 (1977); *affirmed sub. nom., Communications systems, Inc.* v. F.C.C., Nos. 77-1992 and 77-1804, September 29, 1978. Since the denial of CSI's proposal regarding Cape Girardeau has been affirmed, we are now free to consider the Blytheville petition and related substitutions.

[10] Population figures are taken from the 1970 U.S. Census.

[11] Petitioners had originally sought a site 31 kilometers (19.4 miles) north of the reference point. However, Station WWWK (formerly WHNU-FM),

Footnotes continued on next page

Assignment of Channel 293 to Blytheville would cause preclusion on one or two channels to ten communities of over 1,000 population which have no present FM assignments: Campbell (pop. 1,979), Morehouse (pop. 1,332), Charleston, (pop. 5,131), and Bernie, Missouri (pop. 1,641); Piggott (pop. 3,087), Rector (pop. 1,990), Hoxie (pop. 2,265), Trumann (pop. 6,023) and Marked Tree, Arkansas (pop. 3,208); and Cairo, Illinois (pop. 6, 227). Petitioner should provide information on alternative channels for the communities thus precluded.

3. West Memphis (pop. 26,070) is located in Crittendon County (pop. 48,106) in western Arkansas, across the Mississippi River from Memphis, Tennessee. West Memphis' only present local service is daytime-only AM Station KSUD (730 kHz.) Crusade states that the principal industries of West Memphis are agriculture, manufacturing, wood processing and oil refining. Christian has filed several letters from prominent local citizens supporting a first FM assignment to West Memphis. Both Crusade and Christian have affirmed their intent to apply for Channel 296A, if assigned to West Memphis. The channel could be assigned in compliance with the minimum distance separation requirements, dependent upon other assignments made in response to the petitions under consideration herein. Since West Memphis is a suburban community, preclusion data is required. Assignment of Channel 296A to West Memphis would cause preclusions on one or two channels to the following communities of over 1,000 population, which have no present FM assignments: Tunica (pop. 1,685), Marks (pop. 2,609) and Hernando, Mississsippi (pop. 2,499); Hughes (pop. 1,872), Lepanto (pop. 1,846), Marked Tree (pop. 3,208) and West Helena, Arkansas (pop. 11,007).[12] Crusade incorporated by reference the engineering data of Christian.

This information did not suggest alternative channels for the precluded communities, stating that the outcome of then-pending Docket No. 19879, involving Little Rock, Arkansas, would significantly affect the ultimate preclusion. Since that docket has been resolved, petitioners should submit alternative channels which might be assigned to the communities affected by the assignment of Channel 296A to West Memphis.

4. Piggott (pop. 3,087), the county seat of Clay County (pop. 18,771), is in northeastern Arkansas, approximately 140 kilometers (88 miles) north of Memphis, Tennessee. Piggott has no present local aural service. BCW states that Piggott's principal industries are farming and various lines of light manufacturing. BCW also attached to its petition letters from Piggott citizens emphasizing the need for local service, particularly for news and weather reports. Petitioners state they will apply for Channel 288A, if assigned to Piggott. Neither preclusion nor *Roanoke Rapids* data are necessary to evaluate this petition, since it involves a first FM service to a community on a Class A channel.

5. Collierville (pop. 3,651) is located in Shelby County (pop, 722,111) in southwestern Tennessee, approximately 24 kilometers (15 miles) southeast of Memphis. Colliersville's present local service consists of daytime-only AM station WMSO (1690 kHz), of which petitioner is the licensee. Crain, in support of his petition, states that he would seek dual identification with and serve the needs of nearby Olive Branch, in DeSoto County, the fastest-growing county in Mississipi, as well as Colliersville, whose population Crain states is likewise growing rapidly. Crain affirms his intent to apply for Channel 296A, if assigned to Colliersville. Depending upon the outcome of the other petitions under consideration herein, this channel can be assigned to Colliersville in compliance with the minimum distance separation requirements.[3]

6. Trumann (pop. 6,023) in Poinsett County (pop. 26,822) is in northeastern Arkansas, approximnately 72 kilometers (45 miles) northwest of Memphis. Trumann is currently served locally by daytime-only AM Station KXMQ (1530 kHz). Trumann, according to Cate, is primarily an agricultural area, specializing in soybeans, cotton and rice, with other industries such as furniture and clothing manufacture and metal fabrication. Cate states that the comprehensive first nighttime weather service its proposed facility would provide is critical to the community, because Trumann is located in a "high density area for severe weather," especially tornados. Cate affirms its intent to apply for Channel 296A, if assigned to Trumann. The channel can be assigned in compliance with the minimum distance separation requirements, provided that no conflicting assignments are made in the instant proceeding.

7. Paragould (pop. 10,639), seat of Greene County (pop. 24,765), is located in northeastern Arkansas, approximately 105 kilometers (65 miles) northwest of Memphis, Tennessee. Paragould's present local service consists of Station KHIG (Channel 285A) and AM Station KDRS (1490 kHz). KDRS states that the area in primarily rural, and that Paragould's recent and projected growth would justify a second FM assignment. KDRS also tells us it would apply for an FM channel, if assigned to Paragould. Barring conflicting assignments as a result of action taken herein, either Channel 261A or 296A could be assigned to Paragould in compliance with the minimum distance separation requirements.[14] Assignment of Channel 261A to Paragould would cause preclusion on the co-channel to five communities of over 1,000 population, of which only Hoxie, Arkansas (pop. 2,265), lacks an FM assignment. KDRS suggests assignment of Channel 296A to Hoxie, as an alternative.[15]

Jonesboro (pop. 27,050) is the seat of Craighead County (pop. 52,068) in northeastern Arkansas, approximately 100 kilometers (62 miles) northwest of Memphis, Tennessee. Jonesboro is currently served by Station KBTM-FM (Channel 270), Station KFIN (Channel 300) noncommercial Station KSAU (Channel 220C), AM Station KBTM (1230 kHz) and daytime-only AM Station KNEA (970 kHz). In support of its petition, MSB tells us that Jonesboro and Craighead County are primarily agricultural in nature, and that its proposed facility would provide approximately three hours per day of specialized programming for the sizeable Black community in Jonesboro.[16] This assignment would cause preclusion on the co-channel to five communities of over 1,000 population, of which only Hoxie has no FM assignment. See paragraph 7, *supra*.

9. Although each petition under consideration herein has provided data

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Footnotes continued from last page
Granite City, Illinois, has been granted permission to relocate its transmitter nine miles south, in St. Louis, Missouri, though it has agreed to continue to operate as a Class B facility and not upgrade to Class C power. This would require SPL to site its proposed facility approximately 3.2 kilometers (2 miles) south of the site originally proposed, to which limitation SPL has acceded.

[12] Several additional Arkansas communities would have sustained preclusion, but for the assignment of Channel 296A to Bald Knob, Arkansas. See *Bald Knob, Arkansas*, Dkt. 79-1, 45 Fed. Reg. 28718 (1980).

[13] Petitioner requests a site 8.8 kilometers (5.5 miles) southwest of the reference point.

[14] Petitioner requests a site 8.2 kilometers (5.1 miles) west of the reference point.

[15] This may be an unrealistic suggestion, in light of the proximity of other communities to which assignment of Channel 296A is sought in other petitions under consideration herein.

[16] The intermixture which assignment of a Class A channel to Jonesboro would cause is of little concern to us, since KDRS indicates a willingness to accept a Class A channel and compete with the two Class C facilities already in operation there.

which might support an FM assignment to the community in question, all of the assignments sought cannot be granted without significant short spacing. Commission staff conducted a search for alternative channels, but no available alternatives were found. Using the channel assignments proposed by the various petitioners, we developed a series of plans, each of which combines the greatest number of mutually compatible assignments which we could make. In coming to a final decision among these plans, we seek further comment from the petitioners on the merits of the alternative proposals.[17] The technically feasible plans are as follows:

Plan I

City	Channel No.
Blytheville, Arkansas	293
Portageville, Missouri	288A
Walnut Ridge, Arkansas	261A
West Memphis, Arkansas	296A

Under this plan, Blytheville would receive a second Class C FM assignment. However, the assignment of Channel 293 to Blytheville would prevent assignment of Channal 296A to Trumann, as that community's first FM assignment or to Paragould as a second FM assignment. The Blytheville assignment would also require a channel substitution at Walnut Ridge. This substitution would prevent assignment of Channel 261A to Paragould or Jonesboro, on account of short-spacing. Both of these communities currently have FM assignments, Paragould one and Jonesboro two. The Blytheville assignment would also require a substitution at Portageville, Missouri, which would prevent assignment of Channel 288A to Piggott, as that community's first local aural service. The plan would also provide for a first FM assignment to West Memphis, a community of over 25,000 population. However, the assignment of Channel 296A to West Memphis prevents its assignment to Collierville, Tennessee, or Trumann, Arkansas. Neither community currently has an FM assignment. Both have daytime-only AM service locally. In support of this plan, a *Roanoke Rapids/Anamosa* study for the Blytheville assignment should be submitted. In addition, the availability of alternative channels for the precluded communities should be submitted as they relate to the Blytheville and West Memphis proposals. See paragraphs 2 and 3, supra.

Plan II

City	Channel No.
Blytheville, Arkansas	293
Collierville, Tennessee	296A
Portageville, Missouri	288A
Walnut Ridge, Arkansas	261A

Plan II would give Blytheville a second Class C FM assignment which, as in Plan I, would effectively prevent an assignment (Channel 296A) to Trumann and to Paragould. The related substitutions at Portageville and Walnut Ridge would also prevent assignments at Paragould, Jonesboro and Piggott. Paragould currently has one local FM service, Jonesboro two. Piggott has no local aural service. The assignment of Channel 296A to Collierville, as that community's first FM assignment, would prevent a first FM assignment to West Memphis. The information requested in Plan I would also be applicable here except the preclusion information would be needed only for the Blytheville proposal.

Plan III

City	Channel No.
Paragould, Arkansas	261A
Piggott, Arkansas	288A
West Memphis, Arkansas	296A

Assignment of Channel 261A to Paragould, as a second assignment, would prevent its assignment to Jonesboro, as that community's third FM allocation and to Walnut Ridge, as substitute for Channel 292A. Without this substitution, Channel 293 cannot be assigned to Blytheville, as a second FM allocation. Assignment of Channel 288A to Piggott, as that community's first local aural service, would prevent its substitution at Portageville, which is also necessary for the Blytheville assignment. Assignment of Channel 296A to West Memphis, as a first FM allocation, prevents its assignment to Collierville and Trumann. As is the case with West Memphis neither of these communities currently has local FM service. A listing of alternative channels for the precluded communities should be submitted in relation to the Paragould and West Memphis proposals. See paras. 3 and 7, *supra.*

Plan IV

City	Channel No.
Jonesboro, Arkansas	261A
Paragould, Arkansas	296A
Piggott, Arkansas	288A
West Memphis, Arkansas	296A

If Channel 261A is assigned to Jonesboro, as a third FM allocation, the channel may not be also assigned as a substitution to Walnut Ridge, which is required in order to provide a second FM assignment for Blytheville. It is further noted that a third FM allocation to Jonesboro, a community of under 30,000, would exceed our population criteria. Assignment of Channel 296A to Paragould, which would provide a second FM service to that community, conflicts with a possible assignment of the same channel to Trumann, as a first FM assignment. Assignment of Channel 288A to Piggott renders impossible the allocation of Channel 288A as a substitute to Portageville, necessitated by the Blytheville assignment plan. Finally, assignment of Channel 296A, as a first FM allocation, to West Memphis, prevents that channel's assignment to both Trumann and Collierville, as first FM assignments for both of those communities. In support of this plan, a preclusion study should be provided for Channel 296A in Paragould, including alternative channels for precluded communities without local FM service. An alternative channel for Hoxie should be given in relation to the Jonesboro proposal. See para. 8, *supra.*

Plan V

City	Channel No.
Collierville, Tennessee	296A
Paragould, Arkansas	261A
Piggott, Arkansas	288A
Trumann, Arkansas	296A

Under this plan, Collierville could receive a first local FM service on Channel 296A. This would prevent the assignment of that channel to West Memphis, also as a first FM allocation. Assignment of Channel 261A to Paragould, a second FM allocation for that community, prevents its assignment as a substitute to Walnut Ridge (which in turn prevents the requested Blytheville assignment) and to Jonesboro, as a third FM assignment. Assignment of Channel 288A to Piggott, which could provide a first local aural service to that community, would prevent the Portageville substitution required for the assignment of Channel 293 to Blytheville. Assignment of Channel 296A to Trumann as a first FM allocation prevents its assignment to West Memphis, also as a first FM assignment to that community. The

[17] In particular, we expect *Roanoke Rapids/Anamosa* data from SPL, with respect to the Blytheville petition, and suggestions of alternative channels for the communities precluded by the assignments sought by SPL, Christian and Crusade, KDRS and MSB.

same preclusion information is required in relation to the Paragould proposal as in Plan III.

Plan VI

City	Channel No.
Collierville, Tennessee	296A
Jonesboro, Arkansas	261A
Piggott, Arkansas	288A
Trumann, Arkansas	296A

This plan could provide first local FM service to Collierville on Channel 296A, which would effectively prevent West Memphis from receiving first local service. Jonesboro could receive a third FM service on Channel 261A, which would preclude its use at Paragould and at Walnut Ridge which, in turn, would prevent the Blytheville assignment. As stated above, a third FM assignment at Jonesboro would exceed the population criteria. Plan VI could also provide a first local aural service to Piggott, on Channel 288A, which would keep that channel from being substituted at Portageville, which, in turn would prevent the proposed Blytheville assignment. Assignment of Channel 296A to Trumann could provide at first local FM service for that community, but would prevent that channel's assignment to West Memphis as a first FM allocation, and to Paragould, where it could provide a second FM service. The same preclusion information should be provided in relation to Jonesboro as in Plan IV.

Plan VII

City	Channel No.
Collierville, Tennessee	296A
Jonesboro, Arkansas	261A
Paragould, Arkansas	296A
Piggott, Arkansas	288A

Provision of first to service Collierville on Channel 296A, which this plan could facilitate, would effectively prevent assignment of that channel to West Memphis, which has no local FM service at present. As noted above, assignment of Channel 261A to Jonesboro as a third FM allocation to that community both prevents the proposed Blytheville assignment and exceeds our population criteria. Assignment of Channel 296A to Paragould could provide a second local FM service there; however, it would prevent that channel's assignment to Trumann as a first FM allocation. Channel 288A could provide a first local aural service to Piggott, but, as discussed above, would prohibit the proposed Blytheville assignment. As in the case of Plan IV, a preclusion is required for Channel 296A in Paragould, and an alternative channel for Hoxie.

10. In view of the foregoing, the Commission seeks comments on the following proposed amendments to the FM Table of Assignments (Section 73.202(b) of the Commission's Rules), with regard to the communities listed below:

City	Channel No.	
	Present	Proposed
Plan I		
Blytheville, Arkansas	241	241, 293
Walnut Ridge, Arkansas	292A	261A
West Memphis, Arkansas	.....	296A
Portageville, Missouri	292A	288A
Plan II		
Blytheville, Arkansas	241	241, 293
Walnut Ridge, Arkansas	292A	261A
Portageville, Missouri	292A	288A
Collierville, Tennessee	.....	296A
Plan III		
Paragould, Arkansas	285A	261A, 285A
Piggott, Arkansas	.....	288A
West Memphis, Arkansas	.....	296A
Plan IV		
Jonesboro, Arkansas	270, 300	261A, 270, 300
Paragould, Arkansas	285A	285A, 296A
Piggott, Arkansas	.....	288A
West Memphis, Arkansas	.....	296A
Plan V		
Paragould, Arkansas	285	261A, 285A
Piggott, Arkansas	.....	288A
Trumann, Arkansas	.....	296A
Collierville, Tennessee	.....	296A
Plan VI		
Jonesboro, Arkansas	270, 300	261A, 270, 300
Pigott, Arkansas	.....	288A
Trumann, Arkansas	.....	296A
Collierville, Tennessee	.....	296A
Plan VII		
Jonesboro, Arkansas	270, 300	261A, 270, 300
Paragould, Arkansas	285A	285A, 296A
Piggott, Arkansas	.....	288A
Collierville, Tennessee	.....	296A

11. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before August 1, 1980, and reply comments on or before August 21, 1980.

13. For further information concerning this proceeding, contact Molly Pauker, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-245 RM—2762, RM—2785, RM—2787, RM—2886, RM—2901, RM—3033, RM—3255, RM—3480]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the prposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-Off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With repect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to the this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the

Commiossion's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 17941 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-249; RM-3471]

FM Broadcast Station in Idaho Falls, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class C channel as a third FM assignment to Idaho Falls, Idaho, in response to a request filed by M. Jay Sorenson. The proposed channel could provide for a third FM broadcast service in Idaho Falls.

DATES: Comments must be filed on or before August 1, 1980, and reply comments must be filed on or before August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Idaho Falls, Idaho), BC Docket No. 80-249, RM-3471.

Adopted: May 29, 1980.

Released: June 9, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition has been filed by M. Jay Sorenson ("Sorenson") [1] proposing the assignment of Channel 268 to Idaho Falls, Idaho. [2]

(b) The channel assignment can be made in conformity with the minimum distance separation requirements.

(c) Sorenson states that he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Idaho Falls, seat of Bonneville County, is located approximately 336 kilometers (210 miles) east of Boise, Idaho.

(b) *Population.* Idaho Falls—35,776; Bonneville County—51,250. (1970 U.S. Census.)

(c) *Local Aural Service.* Three AM stations—one full time, two daytime-only; two FM stations.

3. *Economic Considerations.* Already a center of agriculture, food processing, wholesale and retail distribution and tourism, Idaho Falls will benefit as well from continuing expansion of the U.S. Department of Energy's Idaho National Engineering Laboratory, Sorenson states.

4. *Preclusion Considerations.* Assignment of Channel 277 to Idaho Falls would cause preclusion to twenty-eight communities of over 1,000 population, seventeen of which have no FM assignment. These seventeen are as follows: *Idaho:* Ashton (1,187), St. Anthony (2,877), Montpelier (2,604), Filer (1,173), Buhl (2,975), Wendell (1,122), Gooding (2,599), Shoshone (1,233), Hailey (1,425), Malad City (1,848), Shelley (2,614), Rigby (2,293), Aberdeen (1,542), Arco (1,244), American Falls (2,769), and Ketchum (1,454); *Wyoming:* Afton (1,290). Sorenson should indicate whether alternative channels are available in each case.

5. *Other Considerations.* According to Sorenson, a new Class C station at Idaho Falls would provide no first FM service but would provide a second FM and nighttime aural service to 854 persons in an area of 1,152 square kilometers (450 square miles).

6. As Sorenson argues, our population standards are guidelines, not rigid rules. Hence, the mere fact that Idaho Falls' population is below 50,000 does not *per se* rule out a third FM assignment. Petitioner points to a city-suburban population of over 50,000, and a lack of independent broadcast voices—both FM stations being co-owned by AM facilities—as justifying an additional allocation. We invite comment on this matter.

7. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules as follows:

City	Channel No.	
	Present	Proposed
Idaho Falls, Idaho	241, 256	241, 256, 277

8. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before August 1, 1980, and reply comments on or before August 21, 1980.

10. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communication Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-249 RM-3471]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflicts with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial

[1] Public Notice of the petition was given on September 19, 1979, Report No. 1192.

[2] We have substituted Channel 277 for the requested assignment of Channel 268 to avoid conflict with a request to assign Channel 268 to Chubbock, Idaho (RM-3404).

comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-17910 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-95; RM-3117; RM-3165; RM-3204]

FM Broadcast Table of Assignments for Bountiful, Centerville, and West Jordan, Utah, and Rock Springs, Wyo.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving proposed FM assignments to Bountiful, Centerville and West Jordan, Utah, and Rock Springs, Wyoming, in response to a request by Busch Corporation. The additional time is needed so that reply comments can be filed.

DATE: Reply comments must be filed on or before June 9, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Bountiful, Centerville and West Jordan, Utah, and Rock Springs, Wyoming), BC Docket No. 80-95; RM-3117, RM-3165, RM-3204.

Adopted: June 3, 1980

Released: June 6, 1980.

1. On March 5, 1980, the Commission adopted a *Notice of Proposed Rule Making*, 45 FR 17600, concerning proposed FM channel assignments to the above referenced communities. The date for filing comments was June 2, 1980.

2. On May 30, 1980, counsel for Busch Corporation, filed a request for an extension of time to file reply comments to and including June 9, 1980. Counsel states that due to difficulties relating to transcription and duplicating needs, he was unable to put the reply comments in final form.

3. Section 1.46 of the Commission's rules states that extension requests must be filed seven days in advance of the deadline. The instant request is indeed late and the reason offered for noncompliance does not clearly constitute good cause. One previous reply extension has already been granted. Request of this kind are not only unfair to other parties who contemplate filing comments by the deadline but are disruptive to the Commission's processes. However, since the consent of all parties in this proceeding has been obtained, and the Commission feels it would be in the public interest to have all material available to it in arriving at a decision in this matter, we will grant the brief extension requested.

4. Accordingly, it is ordered, that the date for filing reply comment in BC Docket No. 80-95 is extended to and including June 9, 1980.

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

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-17927 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR PART 73

[BC Docket No. 80-251; RM-3408; RM-3433]

FM Broadcast Station in Boise, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes Channel 290 to Boise, Idaho, as the city's fifth FM assignment, in response to petitions filed by William E. Clayton and Stanley L. Ross. The proposed channel could provide for a fifth FM broadcast service to Boise.

DATES: Comments must be filed on or before August 1, 1980, and reply comments must be filed on or before August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Station. (Boise, Idaho), BC Docket No. 80-251, RM-3408, RM-3433.

Adopted: May 29, 1980

Released: June 11, 1980.

1. *Petitioner, Proposals, Comments.* (a) William E. Clayton ("Clayton") and Stanley L. Ross ("Ross") have filed petitions for rulemaking,[1] both seeking the assignment of Channel 290 to Boise, Idaho. KBOI, Inc. ("KBOI"), licensee of Stations KBOI(AM) and KBOI-FM, Boise, has filed an opposition to which Clayton has replied.

(b) The channel assignment can be made in conformity with the minimum distance separation requirements.

(c) Both petitioners state they will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Boise, capital of the State of Idaho and seat of Ada County, is located in the southwestern part of Idaho.

(b) *Population.* Boise—74,990; Ada County—112,230 (1970 U.S. Census).

(c) *Local Aural Broadcast Service.* Six AM stations, three fulltime and three daytime-only, and four FM stations.

3. *Economic Considerations.* Given its position as state capital, county seat and "central city" of the intermountain region, Boise's major employer is government, petitioners state. Manufacturing and corporate activity have increased substantially, they add, as has interest in nearby recreational facilities. Boise State University, located in the city, has grown significantly over the last five years to a current enrollment of around 10,000, petitioners also note.

4. *Preclusion Considerations.* Assignment of Channel 290 to Boise will

[1] Public Notice of the Clayton petition was given on August 3, 1979, Report No. 1187. Public Notice of the Ross petition was given on August 17, 1979, Report No. 1188.

cause preclusion to thirty-eight communities with populations exceeding 1,000. Of these, twenty-two have no FM assignments: *Idaho:* Filer (1,173), Kimberly (1,557), Buhl (2,975), Wendell (1,122), Gooding (2,599), Shoshone (1,233), Hailey (1,425), Aberdeen (1,542), Ketchum (1,454), Arco (1,244), McCall (1,758), Fruitland (1,596), Panma (1,228), Homedale (1,411), Glenns Ferry (1,386), Meridian (2,616); *Oregon:* Vale (1,448), Nyssa (2,620), Haines (1,407), Elgin (1,375), Union (1,531), John Day (1,566). Staff study indicates that Channels 294 through 300 are available for assignment to precluded communities in the Boise area (a 65-mile radius of Boise).

5. *Other Considerations.* In addition to the matter of preclusion (which is discussed in the previous paragraph), KBOI questions the need for a fifth FM assignment in a city of Boise's size. Clayton, in reply, cites *Sales and Marketing Management's "Survey of Buying Power 1979,"* July 23, 1979, as showing the city's 1978 population to be over 100,000, a figure which under current Commission guidelines justifies five FM allocations. Furthermore, Clayton argues, these guidelines are not rigid rules, and thus need not be followed when circumstances warrant a different approach. Here, petitioner maintains, Boise's rapid growth coupled with its lack of an independent FM service—all existing FM stations being co-owned with AM stations—make a fifth FM assignment advisable. We invite comment on these contentions, both as they pertain to Boise's current population and as they concern other considerations influencing the community's need for an additional service.

6. In view of the foregoing and because we find that the preclusion impact of the proposed Channel 290 assignment would not be significant in view of the availability of alternate channels, we find it in the public interest to explore the possible assignment of Channel 290 to Boise, Idaho, in a rule making proceeding. Accordingly, we propose the following revision in our FM Table of Assignments (§ 73.202(b) of the rules):

City	Channel No.	
	Present	Proposed
Boise, Idaho	222, 250, 282, 286	222, 250, 282, 286, 290

7. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before August 1, 1980, and reply comments on or before August 21, 1980.

9. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-251; RM-3408, RM-3433]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-17928 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-248; RM-3431]

FM Broadcast Station in Eureka, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a third Class C FM channel to Eureka, California, in response to a petition filed by Redwood Broadcasting Company. The proposed channel could provide for first and second FM and nighttime aural services.

DATES: Comments must be filed on or before August 1, 1980, and reply comments must be filed on or before August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Eureka, California), BC Docket No. 80-248, RM-3431.

Adopted: May 29, 1980.
Released: June 12, 1980.

1. The Commission has before it a petition [1] filed by Redwood Broadcasting Company ("petitioner"), permittee of daytime—only AM Station KEKA, Eureka, California, proposing the assignment of Class C Channel 268 to Eureka, California, as that community's third FM assignment. The channel can be assigned to Eureka in conformity with the minimum distance separation requirements. Oppositions to the proposal were filed by Quail Communications, Inc. ("Quail"), licensee of AM Station KATA, Arcata, California, and Winters Broadcasting Company ("Winters"), licensee of Station KXGO(FM), Channel 228A, Aracta, California. Petitioner filed a reply to the oppositions.

2. Eureka (pop. 24,337) [2], seat of Humboldt County (pop. 99,692), is located in the northwest corner of California, approximately 448 kilometers (280 miles) north of San Francisco. It is served locally by two FM stations: KPDJ (Channel 222), KFMI (Channel 242) and two fulltime AM stations (KINS and KRED). A construction permit has been granted to petitioner for daytime-only Station KEKA(AM).

3. Petitioner states that the 1975 population of Eureka, according to the Census Bureau and CAlifornia State estimates, totalled 24,700 which represents an increase over the 1970 population figure. It notes that Eureka is the hub of governmental and commercial trade activity for the county and surrounding area. Petitioner has submitted demographic and economic data with respect to Eureka and Humboldt County in order to demonstrate the need for a third FM assignment to Eureka.

4. Petitioner contends that, as a permittee of a daytime-only AM station in Eureka, it would be able to compete with the two fulltime AM stations licensed to that community and two FM stations there, both of which are co-owned with AM stations. Petitioner claims that the proposed assignment would provide service to substantially all of Humboldt County and Del Norte County.

5. Quail asserts that petitioner has failed to show good cause why the Commission's population and other guidelines for assignment of FM channels should be ignored in this instance. Quail claims that Eureka's population has declined over the last twenty years. It also alleges cutbacks in tourism and labor and states the declining population and economic indices should be considered by the Commission before assigning an additional channel to the Eureka-Arcata [3] market which is already one of the most competitive media markets in the country. Quail contends that petitioner has indicated only two Class A channels are available for assignment among the nineteen communities which would be precluded if the proposed assignment were made, and that many of these communities are substantially populated. Quail argues that service from a potential Class C channel (282) assigned to Redding, California, on which applications are pending, would vastly reduce the numbers of persons who would receive first or second FM and first or second nighttime aural services from the proposed Eureka station. Quail asserts that Eureka is more than adequately served by the existing stations which offer diverse entertainment and non-entertainment programs.

6. Winters offers substantially the same economic arguments as Quail. It contends that the assignment of a third FM channel to Eureka would destroy the economic viability of its daytime-only AM station (KXGO) and would deprive the area of its only music program format and the only area station which devotes part of its broadcast time to classical music.

7. In response, petitioner contends that neither Quail nor Winters dispute the fact that petitioner's daytime-only AM station is the only facility in Eureka or Arcata which is not authorized to operate on a fulltime basis and that the two Class C FM stations in Eureka are co-owned with AM stations in the Market. Petitioner asserts that if a third FM channel is added to Eureka the program diversity would be enhanced, a public interest benefit which is relevant to its request. Petitioner recited figures of total retail sales for Humboldt County which it claims indicates the market to be viable and deserving of another FM broadcast station. As to Quail's contention that only two Class A channels are available for assignment among the nineteen communities petitioner has shown in the precluded area, petitioner asserts that no attempt was made to exhaustively determine the total number of channels available to these communities. It notes that its engineering statement shows that Channels 268, 256 and 286 are available for assignment to the Eureka area. Petitioner points out that Quail's assertion that service on Channel 282 at Redding was not assumed is inaccurate because potential service on this channel was considered and petitioner's engineering statement shows that a sizeable number of people in a large are would recive first and second FM and nighttime aural services.

8. *Preclusion Study:* Channels 265A, 266, 267, 268, 269A, 270 and 271 would be precluded from use in various areas as a result of the proposed assignment. Twenty-three communities with populations exceeding 1,000 are located in these precluded areas. Of these, eleven are without an FM assigment.[4] Fortuna has an AM station and there is a pending proposal to assign either Channel 264 or 221A to Corning (Dkt. 80–203). Petitioner states that alternate channels are available for assignment to Orland (Channel 258), Corning (Channel 256), Willets (Channel 296A), Central Valley (Channel 296A), Project City (Channel 296A), and Weaversville (276A). Petitioner should indicate whether alternate channels are available for assignment to Gridley, Dunsmuir, Ferndale, Fortuna and Blue Lake.

9. *Additonal Considerations:* Petitioner claims the assignment of Channel 268 to Eureka would provide first FM and nighttime aural services to 3,000 persons in a 2,519 square kilometer (984 square miles) area and a second FM and nighttime aural services to 1,360 persons in a 1,843 square kilometer (720 square miles) area. It states that these figures are based on a transmitter site 40 kilometers (25 miles) south of Eureka with an ERP of 100 kW at 2000 feet. In making these calculations, however, petitioner failed to take into account the assignment of Channel 261A at Barberville, California. As a result, its first and second service figures should be somewhat reduced.

10. The request for a third FM assigment to a community fof 24,337 persons exceeds the FM population guidelines. Although the proposed assignment would preclude eleven communities without FM assignments, other channels may be available to assign. Also, petitioner"s showing indicates that some first and second FM and nighttime aural services would be provided. We will, therefore, advance the proposal for the purpose of determining whether the assignment of a

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] Population figures are taken from the 1970 U.S. Census.

[3] The community of Arcata is located approximately 8 kilometers (5 miles) from Eureka. Station KXGO (FM), Channel 228A, and fulltime AM Station KATA are licensed to Arcata.

[4] *California:* Gridley (pop. 3,534), Orland (2,884), Corning (3,573), Willets (3,091), Central Valley (2,361), Project City (1,431), Dunsmuir (2,214), Weaversville (1,489), Ferndale (1,352), Fortuna (4,203), Blue Lake (1,112).

third FM channel to Eureka is warranted and in the public interest.

11. In light of the foregoing, the Commission proposes to amend the FM Table of Assigments, § 73.202(b) of the Commission's rules, with regard to Eureka, California, as follows:

City	Channel No.	
	Present	Proposed
Eureka, California	222, 242	222, 242, 268

12. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

13. Interested parties may file comments on or before August 1, 1980, and reply comments on or before August 21, 1980.

14. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commision.

Henery L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-248 RM-3431]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-17929 Filed 6-12-80; 8:45 a.m.]

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47 CFR PART 73

[BC Docket No. 80-250; RM-3404; RM-3479]

FM Broadcast Stations in Chubbock and Pocatello, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign either a Class A or Class C FM channel to Chubbock, Idaho. In addition, a new Class C channel is proposed for assignment to Pocatello, Idaho, in response to a petition filed by KWIK, Inc. A separate petition filed by KSEI Broadcasters, Inc., seeks a Class C assignment in place of its present Class A channel of operation and is also proposed herein. The addition of a Class C channel to either Chubbock or Pocatello could result in providing significant first and second FM and nighttime aural services.

DATES: Comments must be filed on or before August 1, 1980, and reply comments must be filed on or before August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Chubbock and Pocatello, Idaho), BC Docket No. 80-250, RM-3404, RM-3479.

Adopted: May 29, 1980.

Released: June 12, 1980.

1. The Commission has before it two petitions for rule making seeking assignment of new FM channels to Chubbock and Pocatello, Idaho. While not mutually exclusive, the proposals are related in that they concern communities which are close together and share a city-suburb connection. They are thus best considered together in one proceeding.

2. *RM-3404, Chubbock, Idaho.* KWIK, Inc. ("KWIK") has filed a petition seeking assignment of Channel 268 to Chubbock, Idaho.[1] Chubbock is located approximately 5 kilometers (3 miles) from Pocatello. A rapidly growing city, according to petitioner, Chubbock is in the process of shedding its image as a bedroom community of Pocatello. A great deal of commercial and residential growth is projected, we are told, including two shopping malls, a sixty-acre industrial development and two subdivisions. Chubbock's population, according to the 1970 U.S. Census, was 2,924 and the population of Bannock County where it is located, 52,200. The community has no local aural service.

3. KWIK points to proposed service to unserved and underserved areas as justifying its request for a Class C allocation. (The relevant figures are set forth in paragraph 6.) However, we acknowledge, as does KWIK, that communities of Chubbock's size are not

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

ordinarily assigned Class C channels. Hence, we think it prudent to consider here possible alternatives to the KWIK request, namely (1) assignment of a Class A channel (Channel 280A) to Chubbock, and (2) assignment of Channel 268 to Pocatello for possible use at Chubbock.[2] In its petition, KWIK implies but does not expressly state that it will apply for Channel 268 if assigned to Chubbock. A specific statement of intent as to this proposal and as to the alternatives proposed should be submitted with its comments.

4. With respect to preclusion, assignment of Channel 268 to Chubbock will cause preclusion of forty-three communities of over 1,000 population, twenty-eight of which have no FM assignments. Alternative channels are available to fourteen of these communities. The availability of alternative channels should be demonstrated for the following communities: *Idaho:* Hailey, Filer, Buhl, Wendell, Ketchum; *Nevada:* Wells; *Utah:* Lewiston, Smithfield, Richmond, Wellsville, Garland, Tremonton; *Wyoming:* Green River, Mountain View.

5. As for our alternative proposal for Channel 280A at Chubbock, this assignment would cause preclusion to twenty-two communities of over 1,000 population, twelve of which have no FM assignments. these twelve are as follows: *Idaho:* Aberdeen, Shelley, Rigby, Arco, Kimberly, Shoshone, Hailey, Ashton, St. Anthony, Malad City, American Falls; *Wyoming:* Afton. The availability of alternative channels to these communities should also be demonstrated.

6. Turning to service to unserved or underserved areas, we have reduced KWIK's original figures to reflect the proposed assignment of Class C Channel 273 to Pocatello also proposed herein. Assuming reasonable facilities for that station[3], the Chubbock proposal would provide a first FM service to approximately 1,849 persons in a 2,552 square kilometer (997 square miles) area, a second FM service to approximately 3,910 persons in a 2,470 square kilometer (965 square miles) area, a first nighttime aural service to approximately 384 persons in a 617 square kilometer (241 square miles) area, and a second nighttime aural service to approximately 3,762 persons in a 2,450 square kilometer (958 square miles) area. If the facilities on the requested Pocatello assignment are assumed to be comparable to that proposed for Chubbock (100 Kw at 1441 feet) then we estimate no first FM or nighttime aural service. There would be a second FM service to 1,849 persons in a 2,552 square kilometer (997 square miles) area, and second nighttime aural service to 384 persons in a 617 square kilometer (241 square miles) area.

7. *RM–3479, Pocatello, Idaho.* KSEI Broadcasters, Inc. ("KSEI") has filed a petition seeking assignment of Channel 273 to Pocatello, Idaho.[4] The seat of Bannock County, Pocatello's 1970 population was 40,036. A major business and financial center, according to petitioner, and the home of Idaho State University, Pocatello is served by three AM stations, two fulltime, one daytime-only, and three FM stations. One of the FM channels, Channel 285A, is occupied by KSEI which seeks through this petition to upgrade its facilities so as to cover the city's new residential and commercial areas.[5] Should the requested assignment be made, then the Channel 285A allocation would be deleted. In this respect, we note, KSEI's proposal does not represent an additional frequency for Pocatello.

8. Assignment of Channel 273 to Pocatello would cause preclusion to thirty-six communities with populations exceeding 1,000. Twenty-four of these have no FM assignments. *Idaho:* Arco, Shelley, Rigby, Aberdeen, American Falls, Malad City, Montpelier, St. Anthony, Ashton; *Wyoming:* Afton, Kemmerer; *Utah:* Garland, Trementon, Smithfield, Richmond, Lewiston, Willard, Roy, Clearfield, Kaysville, Woods Cross, Farmington, Morgan, Layton. Petitioner should indicate in comments whether alternative channels are available in each case.[6]

9. *Other Considerations:* As noted earlier, we propose to delete Pocatello's Channel 285A assignment if Channel 273 is added. There arises then the question of whether and under what circumstances KSEI's license to operate on Channel 285A should be modified to specify the Class C channel. Should we add only the one Class C channel at Pocatello, KSEI's license could be modified only if no other interest in the channel is expressed during the comment phase of this proceeding, KSEI being permitted to withdraw its request if interest is shown. *Cheyenne, Wyoming,* 62 FCC 2d 63, 38 R.R. 2d 1665 (1976); *Statesboro, Georgia,* Mimeo No. 82040, 40 R.R. 2d 1021 (1977). Should we assign both Channel 268 and Channel 273 to Pocatello, however, modification seems to us appropriate. The public interest in an equal opportunity for all potential applicants is satisfied so long as one channel is generally available. We see no sound basis in law or policy for requiring the second to be open to all as well, where as is the case here, a licensee will upgrade its facilities to better serve the public. Although an additional assignment would represent a further departure from our population criteria of two channels for cities under 50,000 population, the Pocatello figure is close enough to permit consideration of a fourth assignment.

10. In view of the foregoing, we find it in the public interest to explore the possible assignment of Channel 268 to Chubbock or Pocatello, Idaho, the possible assignment to Channel 273 to Pocatello, and the possible assignment of Channel 280A to Chubbock in a rule making proceeding. However, we need more supporting information to justify a Class C assignment to the surburban community of Chubbock over the assignment to Pocatello. See in this regard, *Brewer, Maine,* Dkt. 20901, 42 FR 27971 (1977); *Granger-Hunter, Utah,* Dkt. 20890, 42 FR 20317 (1977), and *Alameda and Albuquerque, New Mexico,* Dkt. 80–160 (*Notice*), 45 FR 28778 (1980). Accordingly, we propose the following alternative revisions in our FM Table of Assignments (§ 73.202(b) of the Commission's rules):

City	Channel No.	
	Present	Proposed
ALTERNATIVE I		
Chubbock, Idaho	.....	268
Pocatello, Idaho	229, 235, 285A	229, 235, 273
ALTERNATIVE II		
Chubbock, Idaho	.....	280A
Pocatello, Idaho	229, 235, 285A	229, 235, 273
ALTERNATIVE III		
Pocatello, Idaho	229, 235, 285A	229, 235, 268, 273

11. An Order to Show Cause to KSEI Broadcasters, Inc., is not necessary since consent to modification of its license is indicated by its request for a Class C assignment.

12. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix

[2] Under § 73.203(b) of our rules, Channel 268 at Pocatello would be available for use in any community within fifteen miles of the city, provided certain conditions were met.

[3] The Pocatello petitioner does not provide specific proposed operating facilities.

[4] Public Notice of the petition was given on September 19, 1979, Report No. 1192.

[5] Pocatello's other FM assignments are Class C channels.

[6] As Pocatello has two existing Class C assignments, a *Roanoke Rapids/Anamosa* showing is not required for any additional proposed Class C allocations.

below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

13. Interested parties may file comments on or before August 1, 1980, and reply comments on or before August 21, 1980.

14. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–250 RM–3404, RM–3479]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–17930 Filed 6–12–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–247; RM–3413]

FM Broadcast Station in Edenton, N.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of Channel 272A to Edenton, North Carolina, in response to a petition filed by Albemarle Radio Corporation. The proposal assignment could provide for a second FM broadcast service to Edenton.

DATES: Comments must be filed on or before August 1, 1980, and reply comments must be filed on or before August 21, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Edenton, North Carolina), BC Docket No. 80–247, RM–3413.

Adopted: May 29, 1980.

Released: June 9, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Albemarle Radio Corporation ("petitioner"), proposing the assignment of Channel 272A to Edenton, North Carolina, as its second FM assignment.[2]

(b) Channel 272A can be assigned to Edenton in conformity with the minimum distance separation requirements, provided the transmitter site is located approximately 3.2 kilometers (2 miles) north of Edenton.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data.*—(a) *Location.* Edenton, seat of Chowan County, is located approximately 184 kilometers (115 miles) northeast of Raleigh, North Carolina.

(b) *Population.* Edenton—4,766; [3] Chowan County—10,764.

(c) *Local Aural Broadcast Service.* Edenton is served locally by daytime-only AM Station WCDJ, and FM Station WBXB (Channel 261A).

3. *Economic Considerations.* Petitioner states that, according to the North Carolina Department of Commerce, Chowan County's population has increased 6% in six years. It notes that new industry and expansion of existing industry has resulted in additional industrial investments of $6,917,000 from 1970–1978. Petitioner asserts that Edenton is playing a significant role as a commercial center in the continued development of this area. Petitioner adds that this growing community deserves an additional local broadcast outlet to provide local news and alternative programming not presently available.

4. Assignment of Channel 272A to Edenton would cause preclusion to only one community with a population greater than 1,000 (Hertford, pop. 2,023) which has an alternative channel available for assignment. (See footnote 3, above.)

5. In view of the foregoing information and the fact that the proposed assignment could provide a second FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to Edenton, North Carolina, as follows:

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[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] A mutually exclusive petition for the assignment of Channel 272A to Hertford, North Carolina, (RM–3614), has been modified by us to specify Channel 285A in order to avoid a conflict.

[3] Population figures are taken from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
Edenton, North Carolina	261A	261A, 272A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before August 1, 1980, and reply comments on or before August 21, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communication Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-247 RM-3413]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-17936 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[Docket No. 14614; FCC 80-310]

Prohibiting the Assignment of More Than One Channel To Provide Duplicate Television STL or Intercity Relay Circuits Between the Same Point of Origin and Destination

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: The Commission terminates without action a rule making proceeding initiated on its own motion which proposed amendment of § 74.602 of its rules to prohibit the assignment of more than one channel to provide for duplicate TV-STL or intercity relay station operation. The Commission made the proposal because it felt that the use of duplicate program circuits were generally wasteful of TV auxiliary channels and could result in a substantial reduction of channel availability, thereby preventing the accommodation of the future needs of an expanding service. The comments which were filed generally opposed the proposals; however, information obtained in related and more recently filed petitions raises questions as to their reliability. While no action on the proposals is being taken at this time, the matters at issue may be considered in conjunction with other pending petitions, or, as circumstances indicate, through the initiation of a new proceeding.

EFFECTIVE DATE: Nonapplicable.

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

FOR FURTHER INFORMATION CONTACT: Federal Communications Commission, Broadcast Bureau, Policy and Rules Division, Mr. James E. McNally, Jr., (202) 632-9660.

In the matter of Amendment of § 74.602 of the Commission's rules and regulations to prohibit the assignment of more than one channel to provide duplicate television STL or intercity relay circuits between the same point of origin and destination, Docket No. 14614, see also 27 FR 5819, June 20, 1962.

Report and Order—Proceeding Terminated

Adopted: May 29, 1980.

Released: June 10, 1980.

1. On April 25, 1962, the Commission adopted a Notice of Proposed Rule Making in the above-entitled matter which was published in the **Federal Register** (27 FR 4209) on May 2, 1962.

2. In the Notice, the Commission indicated that it had been receiving an increasing number of inquiries and applications for the assignment of two channels for the operation of duplicate program circuits between the studio and transmitter of television broadcasting stations, the purpose of which was to provide for increased program circuit reliability. This was done through simultaneous dual circuit utilization (which simplified and minimized circuit switching time, minimizing program loss, and enabled the licensee to select between the better of the two program circuits), by maintaining an alternate standby circuit in "ready" condition (which could be used in the event of equipment failure or cochannel interference), or by using frequency diversity (to minimize the loss of signal due to fading or other vagaries in propagation conditions).

3. While the Commission commended TV station licensees for their desire to maintain the highest possible degree of program continuity, it indicated that it felt that the use of duplicate program circuits was unjustifiably wasteful of TV auxiliary channels and could result in a substantial reduction in auxiliary channel availability, thereby preventing the accommodation of future needs of an expanding service. Additionally, the Commission noted that several of the techniques mentioned previously could be implemented on a single channel, and that space diversity could often be used in lieu of frequency diversity. Accordingly, the Commission proposed to amend paragraph (d) of the then § 4.602 (now § 74.602) to indicate that not more than one channel would be authorized for the operation of duplicate STL or intercity relay circuits between the same point of origin and destination; and to add a new paragraph (h) explaining that this retriction would apply only to a single area of operation.

4. Comments were filed by Las Vegas Television, Inc., Telrad, Inc., Kelly Broadcasting Company, Columbia Broadcasting System, Inc., Midwest Radio-Television, Inc. and WBEN-TV. Reply comments were filed by A. H. Belo Corporation, Goodwill Stations, Inc., the tribune Company, A. Earl Cullum, Jr. Consulting Engineers and Mount Washington TV, Inc.

5. With the exception of the Tribune Company (which indicated that the proposed changes were acceptable provided the Commission continued to authorize two channel STL facilities for the duration of the useful life of existing equipment), all of those filing comments objected to the Commission's proposal. Many of those filing comments were licensees of stations at geographic locations which were subject to unpredictable and adverse propagation conditions. These licensees argued that most program time losses were due to signal path fades, not equipment failure as was suggested by the Commission in the Notice. Engineering and statistical evidence was presented favoring the use of frequency diversity over space diversity in the resolution of many signal path propagation problems.

6. It was further argued that the Commission's proposal, if implemented, could increase the chance of interference between TV pickup and STL stations, particularly where the latter were situated at common locations such as mountain tops or tall towers. In general, it was felt that with the possible exception of the cities of New York and Los Angeles, there was not (and was not likely to be) a frequency congestion problem in the spectrum used by television auxiliary broadcast licensees; that absent such congestion, the added reliability afforded by two channel operation should be considered as efficient use of available spectrum; that licensees could be relied upon to cooperate in the resolution of such interference problems as may occasionally occur; and that there was no compelling need to prohibit or otherwise hinder two channel STL operations.

7. Demands on the spectrum allocated for the broadcast auxiliary service have greatly increased since the issuance of the Notice and the filing of the comments, as is evidenced by a number of petitions which are currently before the Commission. For example, the National Association of Broadcasters and CBS, Inc., in petitions RM–2267 and RM–3075, respectively, request additional spectrum to meet the growing needs of remote pickup operations (due in large part to the advent of electronic news gathering). Additionally, the Commission recently granted a petition filed by the Teleprompter Corporation (considered in Docket 21505) which sough access to the auxiliary service allocation at 12.95–13.20 GHz by the Cable Television Relay Service. This further increases the demand on the broadcast auxiliary spectrum.

8. The information obtained from these more recently filed petitions raises questions as to the relevance and reliability of the comments filed in response to the Notice. Accordingly, we believe that no action should be taken in regard to the proposals in it at this time; but that the issues should be addressed in conjunction with the requests for additional spectrum outlined above, as appropriate, or as circumstances indicate, through the initiation of a new proceeding. Thus, interested parties will be able to file more relevant and timely comments.

9. Accordingly, in view of the foregoing considerations, it is ordered that this proceeding is terminated without action.

10. Further information on this matter may be obtained by contacting Mr. James E. McNally, Jr., Policy and Rules Division, Broadcast Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 254–6884.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–17932 Filed 6–12–80; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 87

[PR Docket No. 80–243; FCC 80–284]

Clarifying the Aeronautical EnRoute Station Rules and Providing Two Additional Frequencies for Use by Small Aircraft Operating Agencies

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This Notice proposes to clarify the rules regarding aeronautical enroute stations and to provide two additional frequencies for use by relatively small aircraft operating agencies. Enroute stations provide air-ground communications for the operational control (flight management) of aircraft by the operating company. This action results from a review of the aeronautical enroute service by the Commission. It is intended to make these rules easier to use and provide an alternative for small aircraft operating agencies who have limited communications needs and do not wish to enter into sharing arrangements for enroute service.

DATES: Comments must be received on or before July 14, 1980, and reply comments must be received on or before July 29, 1980.

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

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 87 to clarify the aeronautical enroute station rules and provide two additional frequencies for use by small aircraft operating agencies, PR Docket No. 80–243.

Adopted: May 29, 1980.

Released: June 12, 1980.

1. In this notice we are proposing to amend the rules concerning aeronautical enroute stations to (a) simplify and clarify these rules, including the substitution of one *licensee* per location for the current one *station* per location restriction, and (b) provide two additional frequencies for local area enroute service for relatively small aircraft operating agencies, without the one licensee per location restriction.

Background—(Aeronautical EnRoute Service)

2. The aeronautical enroute service provides air-ground communications for the operational control (flight management) of aircraft by the

operating companies.[1] Communications relate to safe and efficient aircraft operation. Typical messages concern aircraft performance, fuel, weather, position reports, essential services and supplies and the like. Public correspondence (i.e., private or personal messages of passengers or crew) is not permitted on enroute frequencies.

3. Functionally, U.S. aeronautical enroute stations (ground stations) can be classified in two basic categories, "network" stations and "local area" stations. There are approximately 450 VHF aeronautical enroute stations in a network configuration. A "network" consists of a group of interconnected (via private lines and/or microwave circuits) enroute stations operating on the same frequency [2] and serving a given flight route. Messages from aircraft are received by the network stations and delivered in accordance with prearranged agreements or, in some cases, instructions from the flight crew. For example, one airline may have all messages delivered to one location for internal distribution while another will have traffic routed directly to various departments. Of course, messages are also routed in the ground-to-air direction.

4. Nearly 2000 licensed enroute stations sharing this same frequency band are not part of an enroute network. These off-net VHF stations provide "local area" service and are usually located at an airport. Primarily, communications are with aircraft at relatively low altitudes, approaching or departing the airport on which the station is located. Typical messages relate to terminal area operational matters, such as aircraft servicing and parking information, systems status reports, weather-reports, and crew and passenger information.

5. In addition, service is provided for international flights via extended range VHF stations and high frequency (HF) stations. Thus, flights on routes over the Atlantic, Pacific and Caribbean may maintain operational control communications.

6. Enroute stations are the means by which companies satisfy FAA requirements to maintain reliable commmunications between each aircraft and the appropriate dispatch office in the case of large trunk air carriers, or maintain flight following systems in the case of small airlines and large commercial aircraft operations (14 CFR 121.99 and 121.125, respectively.)

7. The Commission's rules governing aeronautical enroute stations are set forth in Subpart E of Part 87 (Aviation Services). These stations are required to "* * * provide all necessary non-public service, HF and VHF, * * * without discrimination to any aircraft station licensee who makes cooperative arrangements for the operation and maintenance of the aeronautical enroute stations which are to furnish such service and for shared liability in the operation of such stations * * *" [3] Only one aeronautical enroute station in the domestic service and one such station in the international service may be authorized at any one location.[4] Location for the purposes of this rule is defined as an area which can be adequately served by the particular station.

8. The rules make available frequencies in the VHF band 128.8–132.0 MHz for assignment to enroute stations providing domestic or international service in the continental United States. (The HF and/or VHF frequencies available for assignment in the domestic service for Alaska, Hawaii and the West Indies also are specified. In addition, high frequencies available for assignment for international enroute service in accordance with the International Civil Aviation Organization (ICAO) Assignment Plan and the applicable international Radio Regulations are set forth in the rules.)

(Aeronautical Radio, Inc.)

9. In the early days of the aviation transport industry it was recognized that the limited number of suitable frequencies available for aviation was not sufficient to allow each aviation organization to have its own "chain" of radio stations along its various air routes. With encouragement from the Federal Radio Commission, the early air transport companies adopted a plan calling for coordination and cooperation in the use of available frequencies along the airways. As a result Aeronautical Radio, Inc. (ARINC) was incorporated in 1929 as a private communications company dedicated to serving the air transport industry on a non-profit, cost-sharing basis. In 1930, in its 4th Annual Report to Congress, the Federal Radio Commission reported that:

> "In order to coordinate more closely their radio activities and to assure dependable and adequate communications the air-transport companies formed a cooperative communications company for the aviation public and known as Aeronautical Radio (Inc.). Practically all companies which are operating radio-equipped aircraft are members."

10. ARINC renders its services on a non-profit basis with cost distributed in proportion to use. Its principal stockholders as well as principal customers are the U.S. scheduled airlines. However, it provides its services to all aircraft operators, including foreign airlines, business entities and private individuals. ARINC's Board of Directors is customarily drawn from domestic trunk and flag air carriers, regional air carriers, general aviation[5] and ARINC management. ARINC provides a myriad of telecommunications services for the air transport industry. To a great extent it designs, provides and manages the industry's communications systems.

11. In regard to the aeronautical enroute service, ARINC owns and oerates most, and is the licensee of all the domestic "networks" aeronautical enroute stations. It utilizes approximately 450 remote stations to operate some 70 domestic networks. Although scheduled airlines comprise slightly less than 50% of the organizations using these stations, they generally account for over 98% of the contacts.

12. Of the approximately 2000 off-network enroute stations which provide "local area" service all but 6 are licensed to ARINC, these "local area" stations, although licensed to ARINC, are often in fact owned and operated by the particular user, e.g., an airline or other organization (as Ford Motor Co.) operating aircraft. ARINC exercises its control through lease-contract arrangements whereby it leases the station from the user and executes an agreement with appropriate user employees binding them to ARINC's control. Nominal or no compensation is paid by ARINC. Periodic inspections of these stations are utilized to assist

[1] Operational control communications are defined in Volume II of Annex 10 to the Convention on International Civil Aviation as communications required for exercising authority over initiation, continuation, diversion or termination of a flight. In other words, such communications are used by an organization to directly control its aircraft operations.

Air traffic control communications, on the other hand, relate to the safe, and orderly flow of air traffic, i.e., provide safe separation of aircraft. In the United States air traffic control services are provided by the Federal Aviation Administration (FAA).

[2] Actually the carrier frequencies of nearby "stations operating on the same 25 kHz channel" are off-set at least 4 kHz. This prevents the loud whistles (audio heterodynes) that would otherwise be created when the aircraft receiver received signals from more than one such station at a time.

[3] 47 CFR 87.291(a).

[4] 47 CFR 87.291(b).

[5] General aviation encompasses all facets of civil aviation except certified air carriers and large aircraft commercial operators. For example, corporate jets, light single engine aircraft and sail planes are all considered within the General Aviation classification.

ARINC in maintaining control of station operations.

Problem

13. In recent years a number of relatively small aircraft operators have expressed their dissatisfaction with the present structure of the enroute service. These operators (typically, air taxis, air ambulance operators and the like) are interested in communications between a relatively few aircraft and "local area" enroute stations at one or two airports. The dissatisfaction usually centers on the "one station per location" rule, coupled with the fact that ARINC is most often the licensee of that one station. Further, such operators often question the shared costs or "administrative charges"[6] assessed by ARINC for enroute service, particularly where the user provides the radio equipment and station operators.

14. In the past few months we have carefully reviewed the rules and underlying policies affecting the aeronautical enroute service. Swift Aire Lines, Inc., a California commuter airline, filed a petition for rulemaking essentially requesting that an unrestricted number of enroute stations be authorized at one location, in lieu of the one station per location rule. We denied Swift Aire's petition because we believe it would result in a less efficient and effective enroute communications service.[7]

5. The basic rationale for the formation of an industry intermediary is still valid today. There is a scarcity of available spectrum and a need for coordination among users to assure adequate enroute communications at reasonable costs. ARINC, functioning under the present regulatory structure as a non-profit, intermediary for the air transport industry, has for the past 50 years managed and coordinated the available enroute spectrum.[8] Due to the historical development of the aviation industry and Commission policy, ARINC is the day-to-day manager and chief architect of the enroute system. The system is primarily designed to meet the needs of scheduled air carriers. However, even businesses operating aircraft fleets on an irregular or unscheduled basis can effectively utilize this enroute service. By entering into a cooperative agreement with one licensee enroute communications can be provided at nearly any location in the country.

16. As the Commission noted in the *Report and Order* in Docket No. 20097[9] the public benefits derived from communications sharing arrangements include: (1) services at rates closer to costs, (2) better managment of communications networks, (3) efficient use of available spectrum, and (4) additional incentive for research and development. We feel that the public has in fact received these very benefits as a result of the current regulatory policy and ARINC's contributions in the enroute service. Very few complaints have been received during the many years the enroute service has functioned in the present manner.

17. Furthermore, we believe that the elimination of the one station per location rule in the enroute service would produce a number of negative effects. In that service must be provided to all qualified aircraft operators on the available enroute spectrum, efficiency would certainly suffer. Unfettered expansion of the number of licensees would reduce the usefulness of the industry data base, limit ARINC's ability to coordinate frequency assignments and increase congestion and interference. Flexibility in the planning and implementation of new techniques and configurations would be more difficult due to greater diversification of control. The vast majority of the users of enroute communications would be less satisfied with what would soon be perceived as a less effective service. Therefore, we do not believe it would be desirable to make major changes in the rules or in the manner in which enroute stations are authorized.

18. At this point we wish to emphasize that our discussion is limited to the unique circumstances encompassing the development and utilization of aeronautical enroute service. We certainly do not mean to imply that an expansion of the number of stations or licensees in other radio services would produce negative results. In fact in most radio services such expansion would be encouraged to the extent technically possible.

19. However, although we denied Swift Aire's petition, we recognized that some confusion exists concerning the licensing procedure and scope of service of enroute stations, and indicated we would simplify and clarify the rules. Also, we stated that we would propose to provide one or two frequencies (outside of the present 128.8–132.0 MHz enroute band) for "local area" service for other than scheduled air carriers without the station per location limitation. This was viewed as a possible way to alleviate the major disadvantage of the present enroute structure for relatively small aircraft operations.

Proposal

20. Therefore, we are proposing to simplify and clarify Subpart E of Part 87 of the rules. Essentially, this consists of (a) describing in more general terms the scope of service of enroute stations, (b) eliminating redundant and unnecessary language in the rules listing the frequencies available for enroute service, and (c) reorganizing the rule sections listing the frequencies available by geographic area.

21. Also, by way of clarification, we propose to substitute "one *licensee* per location" for the current "one *station* per location" restriction contained in Rule 87.291. This substitution will not have any effect on enroute service operations. It will, however, better describe the policy intended by the rule and more accurately reflect the existing structure of this radio service.

22. Further, we are proposing to provide the frequencies 122.825 and 122.875 MHz for use by small aircraft operating agencies for "local area" enroute service. The "one licensee per location" restriction will not apply to stations operating on these frequencies. Our purpose is to provide an alternative to the ARINC system for these relatively small aircraft operations which have need only for local area enroute communications. We feel that in large metropolitan areas congestion on one frequency may be too great to offer a real alternative to the ARINC system. Therefore, we propose to make two frequencies available. Additionally, we propose to make these frequencies available exclusively to organizations operating aircraft with a capacity of up to 56 passengers or 18,000 pounds of cargo. This demarcation line is derived from the Airline Deregulation Act of

[6] ARINC assesses "local area" enroute station users $7 per month. This administrative charge subsidizes the following ARINC services: (1) Frequency coordination studies, (2) equipment selection, (3) application filing, (4) constant frequency utilization evaluation, (5) participation in FCC and international proceedings relating to the enroute spectrum, (6) $75 million in liability insurance for all users at each station, (7) provision of guidance materials for station operators, (8) information concerning recent regulatory developments, (9) station inspection for compliance with applicable rules and efficient frequency usage, and (10) maintenance of an accurate up-to-date data base of enroute facilities.

[7] *Memorandum Opinion and Order*, RM 3113, adopted January 16, 1980, FCC 80–15.

[8] In its March 1978 Working Paper, the Commission's UHF Task Force noted at page 85: "As the organization directly responsible for using the frequencies in the 128.8–132.0 MHz band ARINC has done a remarkable job. Improvements in operational techniques have been regularly introducted, and the spectrum has been effectively and efficiently used."

[9] Adopted July 1, 1976, 60 FCC 2d 261. Reconsidered *Memorandum Opinion and Order*, adopted January 5, 1977, 62 FCC 2d 588.

1978.[10] We feel this is a reasonable point at which to distinquish large scheduled airlines from relatively small aircraft operations such as air taxis and the like.

23. The two frequencies selected are among the frequencies at 25 kHz set aside for future assignment in the Aviation Services in Docket No. 20123.[11] We realize that not all aircraft will be able to immediately utilize these 25 kHz channels. Aircraft with older radio equipment having 50 kHz channelization (i.e., those with 360 channels available rather than 720) are not able to communicate on these frequencies. However, these 25 kHz channels are the only channels in the VHF aeronautical band available. The channels with 50 or 100 kHz separation in the band are heavily used for other aviation communications needs. Also with avionics becoming increasingly sophisticated, almost all new VHF aircraft radio equipment has 720 channels available.

24. In an unrelated editorial matter, we propose to add a paragraph to Section 87.235 to set forth the frequencies available to airborne stations in the Public Mobile Radio Service (Part 22). These frequencies may be used to communicate with land mobile stations which are interconnected to the nationwide public telephone system. Currently Part 87 of the rules does not reference this communications service. Noting in the Aviation Services that these frequencies are available under Part 22 will be convenient for the public.

25. The proposed amendments to the rules as set forth in the appendix below are issued pursuant to the authority contained in sections 4(i), 303(b) and (r) of the Communications Act of 1934, as amended.

Comments

26. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before July 14, 1980, and reply comments on or before July 29, 1980. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source or such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

27. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. Section 87.235 is amended by designating the existing paragraph "(a)" and adding a new paragraph (b) to read as follows:

§ 87.235 Frequencies available.

(a) * * *

(b) In addition, the following frequencies are available in the Public Mobile Radio Services (Part 22) to airborne stations for communications with land mobile stations which are interconnected to the nationwide public telephone system:

Base station frequencies (MHz)	Working channel designations	Frequencies (MHz) [1]
454 675 [2]		
454 700	6	459 700
454 725	7	459 725
454 750	5	459 750
454 775	8	459 775
454 800	4	459 800
454 825	9	459 825
454 850	3	459 850
454 875	10	459 875
454 900	2	459 900
454 925	11	459 925
454 950	1	459 950
454 975	12	459 975

[1] Mobile and auxiliary test station frequencies (MHz).

[2] This frequency is to be associated with each of the base station channels listed herein and is to be used exclusively as a signaling channel for calling airborne stations.

2. In § 87.291, paragraphs (a) and (b) are amended and (c) is added to read as follows:

§ 87.291 Scope of service.

(a) Aeronautical enroute stations shall provide communications for the operational control of aircraft along domestic or international air routes by the aircraft operating agency. Operational control communications relate to the safe, efficient and economical operation of aircraft, such as fuel, weather, position reports, aircraft performance, essential services and supplies and the like. Public correspondence is not permitted.

(b) Service shall be provided to any aircraft station licensee who makes cooperative arrangements for the operation maintenance and liability of the stations which are to furnish enroute service. In emergency or distress situations service shall be provided without prior arrangements.

(c) Only one aeronautical enroute station licensee will be authorized at any one location. (Because enroute stations may provide service over a large area containing a number of air routes or only provide communications in the local area of an airport, location here means the area which can be adequately served by the particular station.)

3. Section 87.293 and its heading are revised to read as follows:

§ 87.293 Frequencies available in the continental U.S. (excluding Alaska).

(a) The frequencies 128.825–132.00 MHz are available to serve domestic routes. Proposed operations must be compatible with existing operations in the band.

(b) A system or network of interconnected enroute stations which provides communications over an air route(s) may employ offset carrier techniques on the frequencies listed in paragraph (a) of this section. The carrier frequencies of the individual transmitters shall not be offset by more than ±8 kHz. Prior to the use of offset techniques, the Commission must be notified by letter of the precise offset from the authorized frequency.

(c) The frequencies 122.825 and 122.875 MHz are available for assignment to enroute stations which provide local area service to aircraft approaching or departing a particular airport. These frequencies may be assigned without regard to the one licensee per location restriction contained in § 87.291(c). However, these two frequencies are only available to enroute stations serving aircraft operators solely operating aircraft with a capacity of up to 56 passengers or 18,000 pounds.

(d) 121.5 MHz is the universal air-ground emergency and distress frequency. This frequency may be assigned to enroute stations solely for emergency and distress communications.

4. Section 87.295 and its heading are revised to read as follow:

[10] Pub. L. 95–504, 92 Stat. 1705. Among other things, the Act granted air carriers operating aircraft with a capacity of up to 56 passengers or 18,000 pounds an exemption from the requirement to obtain a certificate of public convenience and necessity.

[11] *Report and Order*, Docket No. 20123, adopted April 5, 1977, 64 F.C.C. 2d 573, 42 FR 20469.

§ 87.295 Frequencies available in Alaska.

(a) The following frequencies are available to enroute stations only for communications with scheduled air carrier along air routes in the areas indicated below:

(1) *Throughout Alaska:*

MHz:

129.1, 129.3, 129.5, 129.7, 129.9, 130.1, 130.3, 130.5, 130.7, 130.9

In addition, the following frequencies (which are shared with the Federal Aviation Administration) may be assigned where an applicant shows the need for service not provided by the FAA:

kHz:

2866, 5631

(2) *Aleutian Islands:*

kHz:

2924, 3446, 6568, 10057, 11295, 11319

(3) *Central Alaska* (west of 141°W. longitude):

kHz:

2924, 3481, 5547, 6617

(4) *Southeastern Alaska* (east of 141°W. longitude):

kHz:

2875 (daytime only), 2910,[1] 6568, 10041

(b) The following frequencies are available to enroute stations in Alaska without regard to the one licensee per location restriction contained in § 87.291(c):

kHz:

3411, 4383.8,[2] 4668, 4693 (daytime only) 131.5, 131.6, 131.8, 131.9

MHz:

These frequencies also may be used for communications between enroute stations concerning matters directly affecting aircraft with which they are engaged. Enroute stations located at an uncontrolled airport shall not transmit information concerning runway, wind or weather conditions during the operating hours of an aeronautical advisory station (unicom).

5. Section 87.297 and its heading are revised to read as follows:

§ 87.297 Frequencies available in Hawaii.

The following frequencies are available to serve domestic routes in the State of Hawaii:

MHz:

129.1, 129.3, 129.5, 129.7, 129.9, 130.1, 130.3

6. Section 87.299 and its heading are revised to read as follows:

§ 87.299 Frequencies available in the West Indies.

The following frequencies are available to serve domestic routes in U.S. possessions in the West Indies:

kHz:

2861, 5461, 6575, 8924

MHz:

129.1, 129.3, 129.5, 129.7

7. Section 87.301 and its heading are revised to read as follows:

§ 87.301 International aeronautical enroute service.

(a) The frequencies 128.825–132.000 MHz are available to enroute stations serving international flight operations.

(b) High frequencies available to enroute stations serving international flight operations on the Major World Air Route Areas (MWARAS) as defined in the International Radio Regulations and the International Civil Aviation Organization (ICAO) Assignment Plan are as follows:

(1) *Central East Pacific* (CEP).

kHz:

3467, 5554, 5603, 8931, 8875, 13336, 17909 (Secondary) [3]

(2) *Central West Pacific* (CWP).

kHz:

2896, 6631, 8854, 4675, 5505, 11303, 13296, 17909

(3) *North Pacific* (NP).

kHz:

2910, 5589, 8938, 13264, 17909

(4) *South Pacific* (SP).

kHz:

2945, 5638, 8847, 13304, 17909 (Secondary)

(5) *North Atlantic* (NA).

kHz:

2868, 2931, 2945, 2987, 5610, 5624, 5673, 8945, 5638, 8854, 8889, 8910, 13288, 13328, 13352, 17965 (Secondary)

(6) *Europe* (EU).

kHz:

2910, 3467, 4689, 5554, 6582, 8931, 6568, 8875, 11303, 17965 (Secondary)

(7) *South America-West* (SAM–1).

kHz:

2889, 4696, 6666, 8826, 11343, 17925 (Secondary)

(8) *South America-East* (SAM–2).

kHz:

2910, 5582, 8847, 11327, 13320, 17925 (Secondary)

(9) *South Atlantic* (SA).

kHz:

3432, 2875,[3] 6610, 6680, 8882, 10049, 13344, 17925 (Secondary)

(10) *South East Asia* (SEA).

kHz:

2987, 5673, 8868, 8882, 13312, 17965

(11) *Far East* (FE).

kHz:

2868, 2987, 5624, 5645, 8840,[4] 8868, 13288, 13312, 17965

(12) *Middle East* (ME).

kHz:

3404, 3446, 5603, 6624, 8847, 10009, 13336, 17965 (Secondary)

(13) *Africa-West* (NSA–1).

kHz:

3411, 5519, 13304, 8826, 17925 (Secondary)

(14) *Africa-East* (NSA–2).

kHz:

2966, 3481, 5505, 6540, 6561, 8959, 10025, 13280, 13336, 17925 (Secondary)

(15) *Caribbean* (CAR).

kHz:

2952, 2966, 5484, 5568, 6540, 6561, 6568, 8840, 8959, 10017, 11343, 11367, 13320, 17925 (Secondary)

§ 87.303 [Deleted]

8. Section 87.303 is deleted.

§ 87.305 [Deleted]

9. Section 87.305 is deleted.

§ 87.307 [Deleted]

10. Section 87.307 is deleted.

[FR Doc. 80–17935 Filed 6–12–80; 8:45 am]
BILLING CODE 6712–01–M

[1] Power is limited to 325 watts unless a showing is made that additional power is required and harmful interference will not be caused to any service or station.

[2] This frequency may be used for emergency communications with any other authorized radio station in Alaska. However, no airborne operations are permitted. Maximum power is limited to 150 watts PEP.

[3] Limited to south of 30° north latitude.

[4] Use in ICAO Network SEA–2 is on noninterference basis.

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47 CFR Part 97

[PR Docket No. 80–252; RM–3239; RM–2861; FCC 80–325]

Permitting Facsimile and Television Transmissions in Additional Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: In the Amateur Radio Service, the Commission is proposing to allow the transmission of television and facsimile emissions on all frequencies where voice is allowed.

DATES: Comments must be received on or before September 22, 1980 and Reply Comments must be received on or before October 22, 1980.

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

FOR FURTHER INFORMATION CONTACT: Jay Jackson, Private Radio Bureau, Rules Division, (202) 254–6884.

SUPPLEMENTARY INFORMATION: In the matter of amendment of the Amateur Radio Service rules to permit facsimile and television transmissions in additional frequency band, PR Docket No. 80–252, RM–3239, RM–2861.

Adopted: June 3, 1980.

Released: June 12, 1980.

1. In accordance with the Administrative Procedure Act, 5 U.S.C. 553, and § 1.412 of the Commission's rules, 47 CFR 1.412, the Commission hereby gives Notice of Proposed Rule Making in the above-captioned matter.

2. Before the Commission are two petitions for rulemaking. Both petitions request changes to the table of authorized frequencies and emissions in the Amateur Radio Service Rules. RM–3239, filed by Robert J. Roehrig, requests that the Commission allow the transmission of facsimile (emission types A4 and F4) in all amateur radio frequency bands where the transmission of television (emission types A5 and F5) is allowed. RM–2861, filed by Henry B. Ruh, requests that the Commission allow the transmission of television in all amateur radio frequency bands where the transmission of voice is allowed.

3. In RM–3239, the petitioner states that the emission from a transmitter modulated by facsimile video is similar to that from a transmitter modulated by slow-scan television (SSTV) video, in terms of bandwidth and interference potential. He further states that surplus facsimile equipment is readily and economically available, and that facsimile is superior to television where a permanent copy of the transmitted image is desired.

4. We agree that facsimile and SSTV emissions do appear to be similar in bandwidth and interference potential. Amateur radio operators have been transmitting SSTV on the high frequency bands for nearly twelve years, yet we have received very few complaints of interference to voice operations. Because of our experience with SSTV, we believe that allowing the use of facsimile on amateur radio frequency bands where television is allowed might indeed provide an additional, useful operating mode without having any negative impacts on the Amateur Radio Service.

5. The rule amendments requested in RM–2861 would allow amateur radio stations having a General, Advanced, or Amateur Extra Class licensee as the control operator to transmit television signals on frequency bands between 3.775 and 21.450 MHz. This privilege is currently allowed only to stations having an Advanced or Amateur Extra Class licensee as the control operator. However, advancement in SSTV technology may have reduced the need for Advanced technical skill on the part of the amateur SSTV station control operator. In 1968, when we first adopted rules permitting SSTV operation on the HF bands,[1] SSTV was a new, experimental mode of operation, and we did not know what impact, if any, it would have on the Amateur Radio Service. Today, by contrast, there appears to be sufficient technical information available to those interested in SSTV. Therefore, we believe that specialized knowledge may no longer be needed to transmit SSTV. Interference with voice operations apparently has not been a frequent occurrence. Also, we have no evidence that the privilege of transmitting SSTV on the four HF bands has been an effective incentive for amateur radio operators to upgrade their licenses to the Advanced Class. Consequently, we find little, if any, justification for continuing to restrict SSTV transmission on these four HF bands to stations having an Advanced or Amateur Extra Class licensee as the control operator.

6. Accordingly, we are proposing to amend Part 97 of the Rules to permit the transmission of television or facsimile signals, amplitude or frequency modulated, on all amateur radio frequencies above 3.775 MHz where voice transmissions are currently allowed.[2] We are also proposing to include facsimile transmission within the bandwidth limitations which currently apply to television transmissions. The specific rule amendments proposed appear in the attached appendix below.

7. We are not proposing changes to the authorized emissions in the 1.8–2.0 MHz band. Amateur radio use of this band is on a secondary basis to the LORAN–A radionavigation system. The terms of this sharing arrangement are set forth in § 2.106 of the Commission's rules. Under footnote NG15(a)(3) of that section, only types A1 and A3 emissions are to be used by amateur radio stations operating in this band.

8. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before September 22, 1980, and reply comments on or before October 22, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC.

10. For further information on this proposal, contact Jay Jackson, (202) 254–6884, Rules Division, Private Radio Bureau, 1919 M Street NW, Washington, DC 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. The table of emissions in § 97.61(a) is amended by the deletion of the lines beginning with "3775–3890 kHz", "7150–7225 kHz", "14200–14275 kHz", and "21.250–21.350 MHz"; and, the insertion of emission designators "A4", "A5", "F4", and/or "F5" under the second column, on appropriate lines, as follows:

[1] *Report and Order*, Docket 17736, 13 FCC 2d 987,990 (1968); 33 FR 10641, July 26, 1968.

[2] The proposed amendments do not include or affect the use of the frequency 4383.8 kHz, which is for emergency use in the State of Alaska.

§ 97.61 Authorized frequencies and emissions.

(a) * * * *

Frequency bands	Emissions	Limitations (see paragraph (b))
kHz		
* * * * *		
3775–4000	A3,A4,A5,F3,F4,F5	
* * * * *		
7150–7300	A3,A4,A5,F3,F4,F5	3,4
14200–14350	A3,A4,A5,F3,F4,F5	
MHz		
* * * * *		
21.250–21.450	A3,A4,A5,F3,F4,F5	
* * * * *		
28.500–29.700	A3,A4,A5,F3,F4,F5	
* * * * *		
50.1–54.0	A2,A3,A4,A5,F1,F2,F3,F4,F5	
* * * * *		
144.1–148.0	A0,A2,A3,A4,A5,F0,F1,F2, F3,F4,F5.	
* * * * *		

2. Section 97.65 is amended by deletion of the current texts of paragraphs (d), (e), and (f) and substitution of the following texts therefor:

§ 97.65 Emission limitations.

* * * * *

(d) On frequencies below 50 MHz, the bandwidth of any A4, A5, F4, or F5 emission shall not exceed that of an A3 single sideband emission.

(e) On frequencies between 50 MHz and 225 MHz:

(1) The bandwidth of any F4, F5, A4 single sideband, or A5 single sideband emission shall not exceed the bandwidth of an A3 single sideband emission.

(2) The bandwidth of any A4 double sideband or A5 double sideband emission shall not exceed the bandwidth of an A3 double sideband emission.

(f) Below 225 MHz, an A3 emission and an A4 or A5 emission may be used simultaneously on the same carrier frequency, provided that the total bandwidth does not exceed that of an A3 double sideband emission.

[FR Doc. 80–17934 Filed 6–12–80; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 45, No. 116
Friday, June 13, 1980

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

Food and Nutrition Service

Child Nutrition Program; Income Poverty Guidelines for Determining Eligibility for Free and Reduced Price Meals and Free Milk

Pursuant to sections 9 and 17 of the National School Lunch Act, as amended (42 U.S.C. 1785 and 42 U.S.C. 1766), and Sections 3 and 4(e) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772 and 1773(e)), the income poverty guidelines for determining eligibility of children for free and reduced price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Food Program (7 CFR Part 226), and commodity only schools (7 CFR Part 210.15(a)) and, at the option of the School Food Authority, for free milk in the Special Milk Program (7 CFR Part 215) during the period July 1, 1980–June 30, 1981 are prescribed by the Secretary in the following tables.

Under the legislation and applicable regulations, schools and institutions which charge for meals and milk separately from other fees are required to serve free meals and, at the option of the School Food Authority, free milk to all children from families whose incomes are at or below 25 percent above the applicable family size income level indicated by the Secretary's guidelines. Schools and institutions which charge for meals separately from other fees are required to serve reduced-price meals to all children from families whose incomes are at or below 95 percent above the applicable family size income level in the guidelines.

Each State agency is required to prescribe income guidelines for both free and reduced-price meals and free milk by family size for use by schools and institutions in the State. The State guidelines for free meals and for free milk must be 25 percent above the applicable family size income level prescribed by the Secretary. The State guidelines for reduced-price meals must be established at 95 percent in excess of the Secretary's guidelines.

For the convenience of State agencies, the tables also show the Secretary's income poverty guidelines when increased by 25 percent and when increased by 95 percent. Guidelines for the Island of Guam are identical to those established for the State of Hawaii.

Income Poverty Guidelines July 1, 1980—June 30, 1981

Family size	Secretary's guidelines			Guidelines levels when increased by 25 percent			Guidelines level when increased by 95 percent		
48 States, District of Columbia, Territories Excluding Guam									
	Poverty level			25 percent			95 percent		
	Annual	Monthly	Weekly	Annual	Monthly	Weekly	Annual	Monthly	Weekly
1	4,180	348	80	5,230	436	101	8,150	679	157
2	5,520	460	106	6,900	575	133	10,760	897	207
3	6,860	572	132	8,580	715	165	13,380	1,115	257
4	8,200	683	158	10,250	854	197	15,990	1,333	308
5	9,540	795	183	11,930	994	229	18,600	1,550	358
6	10,880	907	209	13,600	1,133	262	21,220	1,768	408
7	12,220	1,018	235	15,280	1,273	294	23,830	1,986	458
8	13,560	1,130	261	16,950	1,413	326	26,440	2,203	508
Each additional family member	+1,340	+12	+26	+1,680	+140	+32	+2,610	+218	+50
Alaska									
	Poverty level			25 percent			95 percent		
	Annual	Monthly	Weekly	Annual	Monthly	Weekly	Annual	Monthly	Weekly
1	5,240	437	101	6,550	546	126	10,220	852	197
2	6,910	576	133	8,640	720	166	13,480	1,123	259
3	8,580	715	165	10,730	894	206	16,730	1,394	322
4	10,250	854	197	12,810	1,068	246	19,990	1,666	384
5	11,920	993	229	14,900	1,242	287	23,240	1,937	447
6	13,590	1,133	261	16,990	1,416	327	26,500	2,208	510
7	15,260	1,272	293	19,080	1,590	367	29,760	2,480	572
8	16,930	1,411	326	21,160	1,763	407	33,010	2,751	635
Each additional family member	+1,670	+139	+32	+2,090	+174	+40	+3,260	+272	+63

Hawaii and Guam

	Poverty level			25 percent			95 percent		
	Annual	Monthly	Weekly	Annual	Monthly	Weekly	Annual	Monthly	Weekly
1	4,810	401	93	6,010	501	116	9,380	782	180
2	6,350	529	122	7,940	662	153	12,380	1,032	238
3	7,890	658	152	9,860	822	190	15,390	1,283	296
4	9,430	786	181	11,790	983	227	18,390	1,533	354
5	10,970	914	211	13,710	1,143	264	21,390	1,783	411
6	12,510	1,043	241	15,640	1,303	301	24,390	2,033	469
7	14,050	1,171	270	17,560	1,463	338	27,400	2,283	527
8	15,590	1,299	300	19,490	1,624	375	30,400	2,533	585
Each family member	+1,540	+128	+30	+1,930	+161	+37	+3,000	+250	+58

The Secretary's income poverty guidelines are determined by adjusting the nonfarm income poverty guidelines prescribed by the Office of Management and Budget to reflect the change between the 1979 average of the Consumer Price Index and the Consumer Price Index of March 1980. As specified in Section 9 of the National School Lunch Act, the most current procedures of the Office of Management and Budget are used to make this adjustment for price level changes and to make necessary adjustments to determine guidelines applicable to Hawaii, Guam and Alaska.

"Income", as the term is used in this notice is similar to that defined in the Bureau of the Census report, "Characteristics of the Low-Income Population: 1971," Current Population Reports, series P-60, No. 86, December 1972. "Income" means income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes the following:

(1) Monetary compensation for services, including wages, salary, commissions, or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds, income from estates or trusts, or net rental income; (6) public assistance or welfare payments; (7) unemployment compensations; (8) Government civilian employee, or military retirement, or pensions or veterans' payments; (9) private pensions or annuities; (1) alimony or child support payments; (11) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts, and other resources which would be available to pay the price of a child's meal.

"Income", as the term is used in this notice, does not include any income or benefits received under any Federal program which are excluded from consideration as income by any legislative prohibition, for example, income received by volunteers for services performed in the National Older Americans Volunteer Program as stipulated in the Domestic Volunteer Services Acts of 1973, Pub. L. 93–113, Title IV, c 418 (87 Stat. 413, 42 U.S.C. 5058); nor does the term include income used for the following special hardship conditions which could not be reasonably anticipated or controlled by the household:

(1) Unusually high medical expenses; (2) shelter costs in excess of 30 percent of income as defined herein; (3) special education expenses due to the mental or physical condition of a child; and (4) disaster or casualty losses. Furthermore, the value of assistance to children or their families shall not be considered as income if prohibited by the authorizing legislation, e.g., the National School Lunch Act, the Child Nutrition Act of 1966, and the Food Stamp Act of 1964.

In applying guidelines, School Food Authorities may consider both the income of the family during the past 12 months and the family's current rate of income to determine which is the better indicator of the need for free and reduced-price meals; *Provided, however,* That children whose parents or guardians become unemployed shall be eligible for free or reduced-price meals or free milk during the period of unemployment, if the loss of income causes the current rate of family income to be within the eligibility criteria of the School Food Authority.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Final Impact Statement is available from Stanley C. Garnett, Branch Chief, (202) 447–9069, School Programs Division, USDA, FNS, Washington, D.C. 20250.

Effective date: This notice shall become effective July 1, 1980.

Dated: June 9, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–17698 File 6–12–80; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Payette National Forest, Adams, Idaho, Washington, and Valley Counties, Idaho; Notice of Intent To Prepare an Environmental Impact Statement for Proposed Forest Land and Resource Management Plan

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Impact Statement for the proposed Forest Land and Resource Management Plan for the Payette National Forest.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. The Forest Plan will be prepared according to regulations promulgated by the Secretary of Agriculture. The regulations implement section 6 of the National Forest Management Act of 1976.

The resulting Plan will provide for multiple use and sustained yield of products and services from the Payette National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. The Plan will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

The Forest Plan will be selected from among representative alternatives which will include at least: (1) A no-change in existing resource outputs alternative, (2) A range of alternatives that displays possible outputs of resources available at each of several expenditure levels, and (3) Alternatives designed to resolve the identified major public issues and management concerns.

The Forest Plan will be coordinated with the public, Indian tribes, local city, county, and State Governmental organizations, as well as other Federal agencies.

Public involvement and participation is an integral part and will be encouraged throughout the planning process. A public participation information and response booklet compiled from existing information will be sent by mail to those interested individuals, organizations and Governmental offices on the Forest Plan mailing list. The booklet will invite each to attend a workshop and/or respond by mail. Thirty days will be allowed from the date of mailing for written public response. Opportunities for all to comment on the Forest Plan will be a part of each step of its development.

The Payette National Forest will hold six public participation workshops early in the process to determine the scope and the significance of the issues to be analyzed in depth in the Environmental Impact Statement. The workshops to be held in McCall and Boise will be co-hosted with the Boise National Forest. Each workshop will be held at 7:30 p.m. at the following locations in Idaho:

Date, Place, and City

July 1, 1980—High School, Weiser, Idaho
July 2, 1980—Elementary School, Council, Idaho
July 8, 1980—Salmon River High School, Riggins, Idaho
*July 10, 1980—High School, McCall, Idaho
July 11, 1980—High School, New Meadows, Idaho
*July 15, 1980—Hall of Mirrors, 700 W. State Street, Boise, Idaho

Jeff Sirmon, Regional Forester, is the responsible official for this plan.

Further information about the planning and Environmental Impact Statement process or comments on the Notice of Intent should be directed to: Earl Kimball, Forest Planning Staff Officer, Payette National Forest, Box 1026, McCall, Idaho 83638, (208) 634-2255.

The estimated date for filing the Draft Environmental Impact Statement is August 1982, and the anticipated date for filing the Final Environmental Statement is February 1983.

Dated: June 4, 1980.

Jeff Sirmon,

Regional Forester.

[FR Doc. 80-17878 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-11-M

*Meetings combined with Boise National Forest.

Rural Electrification Administration

South Mississippi Electric Power Association and Alabama Electric Coop., Inc.; Intent To Prepare a Draft Environment Impact Statement and Announcement of Public Scoping Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) in accordance with Section 102 (2)(c) of the National Environmental Policy Act of 1969, in connection with a possible loan guarantee commitment to South Mississippi Electric Power Association, P.O. Box 1589, Hattiesburg, Mississippi 39401 and Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420. In connection with the proposed project, REA intends to hold two (2) public scoping meetings to aid in the Federal decisionmaking process and formulation of issues to be addressed in the EIS.

The EIS will address the need for a proposed 230 kV transmission line connecting the two grid systems between Chatom, Alabama, and Waynesboro, Mississippi, and other reasonable alternatives and their environmental impacts. Interested persons are invited to submit comments which may be helpful to REA in the preparation of a Draft EIS. Comments should be sent to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Public scoping meetings will be held on July 14, 1980, in the conference room at the Civic Center in Waynesboro, Mississippi, at 7:00 p.m. and on July 15, 1980, at 7:00 p.m. in the courtroom at the Washington County Courthouse in Chatom, Alabama. These public scoping meetings, to be conducted by representatives of REA, South Mississippi Electric Power Association, Alabama Electric Cooperative, Inc., and their consultants, will be held in order to receive public input and comments concerning the need for the project, potential transmission corridors, significant issues that should be addressed in the EIS, and other matters concerning the proposal. A record will be made of the meetings and comments made will be addressed in the Draft EIS.

REA encourages the general public to attend these public scoping meetings and provide their input. Any person or group which desires to make its comments, questions, or recommendations in writing, may do so either at the meetings or by submitting them to REA. Comments may be sent to the Rural Electrification Administration at the address given above. Requests for additional information or questions concerning the meetings may also be directed to South Mississippi Electric Power Association at its address given above.

Dated at Washington, D.C., this 4th day of June 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-17640 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-15-M

Sunflower Electric Cooperative, Inc., Hays, Kans.; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Final Environmental Impact Statement (FEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with an application for financing to REA from Sunflower Electric Cooperative, Inc., P.O. Box 980, Hays, Kansas 67601, to finance the construction of a 345 kV line approximately 64 miles long from Holcomb, Kansas, to Spearville, Kansas, and related facilities.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of the REA FEIS have been sent to various Federal, state, and local agencies, as outlined in the Council on Environmental Quality regulations. The FEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C. 20250, Room 5839, or at Sunflower's address indicated above. Final action may be taken with respect to this matter after thirty (30) days.

Final REA action, with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C. this 4th day of June, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-17639 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Proposed Federal Information Processing Standard; DES Modes of Operation; Correction

In FR Doc. 80-15687 appearing at page 34322 in the **Federal Register** of Thursday, May 22, 1980, the cryptographic key should be corrected to read "23016745ab89efcd" in all encryption examples appearing on pages 34330 through 34334 and page 34336.

Dated: June 9, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-17828 File 6-12-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Scientific and Statistical Committee, which will meet to discuss amendments to the Squid, Mackerel and Butterfish Fishery Management Plans (FMP's), and also discuss the draft Bluefish FMP.

DATES: The meeting will convene on Tuesday, July 1, 1980, at 10:30 a.m., and will adjourn at approximately 2:30 p.m. The meeting is open to the public.

ADDRESS: The meetinig will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901; telephone: (302) 674-2331.

Dated: June 9, 1980.

Winfred H. Meibohm,

Executive Director National Marine Fisheries Service.

[FR Doc. 80-17954 Filed 6-12-80; 8:45 am]

BILLING CODE 3510-22-M

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Pennsylvania Coastal Management Program.

The Hearings will be on July 1st and 2nd at the following locations:

July 1, 1980-2:30 and 7:30 p.m. Federal Building, 600 Arch Street, Room 6310, Philadelphia, Pennsylvania.

July 2, 1980-7:30 p.m. Erie City Municipal Bldg., Erie City Council Chamber, State Street, Erie, Pennsylvania.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Pennsylvania Coastal Management Program are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on July 21, 1980.

As part of the procedures leading toward approval of the Pennsylvania Coastal Management Program a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: June 9, 1980.

Michael Glazer,

Assistant Administrator, Office of Coastal Zone Managerment.

[FR Doc. 80-17937 Filed 6-12-80; 8:45 am]

BILLING CODE 3510-08-M

Office of the Secretary

Independent Areas Task Force for the National Advisory Committee on Oceans and Atmosphere; Establishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 of March, 1974 as amended, and after consultation with GSA, the Secretary of Commerce has determined that the establishment of this task force is in the public interest in connection with the performance of duties imposed on the Department by law.

The task force will support a NACOA Panel on National Ocean Goals and Objectives, which is composed solely of NACOA members, to formulate national goals and objectives for the future.

The IATF will be structured into six individual area groups, and each will be responsible for developing a specific ocean-related subject area, and preparing preliminary recommendations in the following areas:

- Marine Transportation
- Energy
- Ocean Operations and Services
- Waste Management and Pollution
- Fisheries
- Ocean Minerals

In addition, they will prepare reports that define our national purposes in each subject area; address where the Nation should be headed in these areas in the 1980's and beyond; project national requirements and deficiencies; established specific national goals; develop policy recommendations; assess developmental constraints and the incentives required to stimulate development; and establish the tangible benefits that would accure to the Nation by the attainment of the stated goals.

The IATF will consist of up to 60 members from among the Presidentially appointed NACOA members and non-NACOA members with expertise determined important to the areas under consideration. Non-NACOA members will be appointed by the Secretary of Commerce, on recommendation of NACOA, to ensure a balanced representation of interests, such as academia, business, industry, and other public interest groups, including consumer representatives.

The IATF shall be considered a subcommittee of NACOA and will function, along with its area groups, solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The charter will be filed under the Act, June 30, 1980. Interested persons are invited

to submit comments regarding this notice to Mr. Steven Anastasion, Executive Director, NACOA, 3300 Whitehaven Street, NW., Washington, D.C. 20235, or Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: June 11, 1980.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-18061 Filed 6-12-80; 8:45 am]

BILLING CODE 3510-17-M

Privacy Act of 1974; Adoption of Amended System of Records

The purpose of this notice is to adopt in final form a proposed revision to an existing system of records.

On December 27, 1979, the Department provided notice (44 FR 76663) that it proposed to amend the COMMERCE/DEPT-18 system, Employee Personnel Files Not Covered By Notices of Other Agencies. The purposes of this revision were a) to more precisely describe the locations where records may be found; and b) to clarify Privacy Act protection for necessary records kept by supervisors and managers about employees under their supervision.

Although no change was made in the Routine Use paragraph, and the proposed amendments did not require a new System Report, public comments were specifically invited. In particular, we wanted to know if the revised system clarified Privacy Act coverage for records about supervisor's notes.

No comments were received from the general public. Department employees' comments generally endorsed the revision. As a result of their comments, the Safeguards section is being revised to read as follows (deletions in double parentheses):

COMMERCE/DEPT-18

SYSTEM NAME:

Employee Personnel Files Not Covered by Notices of Other Agencies.

* * * * *

SAFEGUARDS:

Records are located in lockable metal file cabinets or ((in metal file cabinets)) in secured rooms or secured premises with access limited to those whose official duties require access.

* * * * *

The Department hereby adopts the revised system effective July 1, 1980.

Authority: 5 U.S.C. 552a, Sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1986).

Dated: June 9, 1980.

Guy W. Chamberlin,

Acting Assistant Secretary for Administration.

[FR Doc. 80-18031 Filed 6-12-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancelling Import Controls on Certain Cotton, Wool, and Man-Made Fiber Textile Products From Taiwan

June 10, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Cancelling the import controls established on cotton, wool and man-made fiber textile products in Categories 313, 342, 363, 442, 444, 469, 631, 643/644, 647 and 659, except for the Category 659 sublimits, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1980 and extends through December 31, 1980. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 31372), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: In discussions between the American Institute in Taiwan and the Coordination Council for North American Affairs, it has been agreed to establish an export certificate system pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, which will eliminate the need for further control of these categories by the United States. Accordingly, import controls previously established on Categories 313, 342, 363, 442, 444, 469, 631, 643/644, 647 and 659, except for the Category 659 sublimits, are being cancelled.

EFFECTIVE DATE: June 13, 1980.

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

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (44 FR 76839) a letter dated December 21, 1979 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 fiber textile products, produced or manufactured in Taiwan, including Categories 313, 342, 363, 442, 444, 469, 631, 643/644, 647 and 659 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, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commission of Customs to cancel the import controls in effect on Categories 313, 342, 363, 442, 444, 469, 631, 643/644, 647 and 659, except for the Category 659 sublimits.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 10, 1980

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in certain designated categories.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan; 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 June 13, 1980, to cancel the import controls established in the directive of December 21, 1979 for Categories 313, 342, 363, 442, 444, 469, 631, 643/644, 647 and 659, except for the Category 659 sublimits.

The actions taken with respect to Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have 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 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,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-17869 Filed 6-12-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 17, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1980, November 1979 (44 F.R. 67925):

Class 7340

Flatware, Plastic, Picnic: 7340-00-170-8374; 7340-00-205-3187; 7340-00-205-3342. (For GSA National Capitol Region.)

C. W. Fletcher,

Executive Director.

[FR Doc. 80-17840 Filed 6-12-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF EDUCATION

National Institute of Education

Program of Research Grants on Law and Government Studies in Education; Application Notice

Notice is given that applications are being accepted for grants in the Program of Research Grants on Law and Government Studies in Education according to the authority contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

This announcement covers applications for new awards that are to be considered in Fiscal Year 1981. Awards will be made for research on how legislative, administrative, and judicial policies and governmental organizations affect education.

Any institution of higher education, State, local, or intermediate educational agency, public or private non-profit or for-profit agency, organization, group, individual, or any combination of these, is an eligible applicant. A grant to a for-profit organization is subject to any special conditions that the Director may prescribe.

Closing Date: September 16, 1980.

A. *Application and Program Information:* Persons who wish to receive a copy of the program announcement may request one by sending a self-addressed mailing label to the Legal and Government Studies Team, EPO, Mail Stop 19, National Institute of Education, Washington, D.C., 20208 (202-254-6070). (A stamped envelope is not usable.) Those who have requested that their names be placed on the mailing list for the program need not repeat their requests.

This program announcement contains the guidelines governing the program, information on the availability of funds, expected number of awards, eligibility, review criteria, and application instructions.

This program will award major grants and small grants. The major grant is for a project whose direct costs exceed $10,000. A project supported by a major grant under this program may take up to three year's duration, with multi-year work to be funded in 12-month increments. However, initial funding in most cases will not exceed 12 months with subsequent funding contingent upon the satisfactory performance and the availability of funds. Applications for major grants should make clear whether or not they are proposing multi-year funding. A grant application that proposes a multi-year project must be supported by an explanation of the need for the multi-year support, an overview of the objectives and activities proposed, and the budget estimates necessary to attain these objectives in any year after the first year of the project.

An application for a major grant is made in two stages. An applicant for a major grant must first submit a preapplication (formerly called a preliminary proposal) and may submit a full application only after receipt of NIE comments on the preapplication. Consideration of preapplications is designed to strengthen the full applications (fomerly called a full proposal) that are submitted later and to discourage the submission of proposals having little chance of award. However, no applicant who has submitted a preapplication will be denied the opportunity to present a full application.

The small grant supports a project for a duration of up to 12 months for which direct costs do not exceed $10,000. An application for a small grant is a single-stage application without the requirement of a preapplication.

B. *Closing Dates for Transmittal of Applications and Date for Review Cycles:*

Major Grants

Preapplications due	Comments returned	Full applications due	Decisions announced
Sept. 16, 1980	December 1980.	March 3, 1981.	May 1981.
March 3, 1981	June 1981.....	Sept. 10, 1981.	December 1981.
Sept. 10, 1981	December 1981.	March 1982.*	May 1982.*

*All dates for these activities are tentative. Final deadline dates will be published later.

Small Grants

Applications due	Decisions announced in
September 16, 1980.....	December 1980.
March 3, 1981.....	June 1981.
September 10, 1981.....	December 1981.

C. *Estimated Distribution of Program Funds:* An estimated $500,000 is budgeted in FY 81 for funding both small and major grants. Only 5-8 major grants and 3-5 small grants will be awarded during each funding cycle. The total amount allocated to these grants may be increased or decreased by the Director of NIE, based on the merits of grant applications received. In any event, only projects of the highest quality will be supported, whether or not the resources of the program are exhausted. Further, nothing in the program announcement should be construed as committing NIE to award any specific grants.

D. *Applications Delivered by Mail:* An application sent by mail should be securely wrapped and addressed as follows: Proposal Clearinghouse, Mail Stop 1, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. The lower left hand corner of the package should display the words, Law and Government Studies in Education and indicate the type of application: "Preapplication," "Full," or "Small." Applications will be accepted only if they are mailed on or before the closing date and proof of mailing is provided. An application must show proof of mailing consisting of one of the following:

1. A legible 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 Director of the National Institute of Education.

If an application is sent through the U.S. Postal Service, the National Institute of Education 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.

Applicants are urged to use certified or other forms of mail for which receipts can be obtained.

Each applicant whose application does not meet the deadline dates shown above will be notified that the late application will not be considered in the immediate review cycle, but will be held over for consideration in the next one, or returned if the applicant prefers.

E. *Applications Delivered by Hand:* A hand-delivered application must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street, N.W., Washington, D.C. The Proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing dates indicated above, but will be held over and considered in the next cycle of the competition or returned upon request.

F. *Applicable Regulations:* The regulations applicable to this program include: (a) the Interim Final Regulations for the Research Grants Program on Law and Government Studies in Education, 45 CFR 1495, published in the **Federal Register** on April 16, 1979, 44 FR 22660 and amended on April 3, 1980, 45 FR 22546; (b) Education Division General Administrative Regulations (EDGAR), 45 CFR Part 100a (Direct Grant Programs) and Part 100c (Definitions), published in the **Federal Register** on April 3, 1980, 45 FR 22494; and (c) the National Institute of Education General Provisions Regulations, 45 CFR Part 1400–1424, as amended on April 3, 1980, 45 FR 22543.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development)

Dated: May 28, 1980.

Michael Timpane,

Director-Designate, National Institute of Education.

[FR Doc. 80-17876 Filed 6-12-80; 8:45 am]

BILLING CODE 4110-39-M

DEPARTMENT OF ENERGY

Assistant Secretary for Fossil Energy

[DOE/EIS-0069-D]

Solvent Refined Coal Demonstration Project, Fort Martin, Monongalia County, W. Va., May 1980; Draft Environmental Impact Statement; Public Hearing

The Department of Energy (DOE) issued the draft Environmental Impact Statement (DEIS), DOE/EIS–0069–D, Solvent Refined Coal–II (SRC–II) Demonstration Project for public review and comment, within a 45-day comment period. The DEIS was prepared in compliance with the National Environmental Policy Act to assess the potential environmental impacts associated with the construction and short-term opearation of a 6,000 tons of coal per stream day (tpsd) capacity facility which will demonstrate the technical operability, economic viability and environmental acceptability of SRC–II process at Fort Martin, West Virginia. A goal of the demonstration program is to facilitate the construction and operation of a 30,000 tpsd commercial facility. Notice is hereby given that DOE will conduct a public hearing in connection with the DEIS scheduled for Monday, June 30, 1980, from 7:00 p.m. to 10:00 p.m., and Tuesday, July 1, 1980, from 1:00 p.m. to 5:00 p.m., at the Ramada Inn, ABC Room, Morgantown, West Virginia. If necessary, additional time for comments will be scheduled for the evening of Tuesday, July 1, 1980, from 7:00 p.m. to 10:00 p.m.

The purpose of the public hearing to be convened by DOE is to receive public comments on the DEIS document and assure maximum public participation in preparation of the final EIS. The DEIS was distributed for public comment May 30, 1980, and announced in the **Federal Register** June 2, 1980. The closing date for all comments is July 19, 1980. The environmental impacts assessed in the DEIS include effects of the projects on occupational and public health resulting from the production of SRC products; potential impacts on terrestrial and aquatic ecology including State and Federally declared threatened or endangered species; potential and expected impacts on land use; withdrawal and alteration of "prime" agricultural land; projected effects on floodplains and wetland areas; potential contamination of surface and ground water quality; compliance with State and Federal ambient air quality standards; potential change of the cultural landscape including structures potentially eligible for listing on the **Federal Register** of Historic places; presence of sites of archaeological significance; and change of existing economic and social characteristics of the site area. Additionally, the DEIS addresses the potential long-range and cumulative impacts of a future commercial expansion of the proposed facility to achieve an approximately 30,000 tpsd capacity.

The above issues and others raised at the public hearing and during the comment period will be addressed and appropriate revisions made in the final EIS.

The public hearing will be conducted by a Presiding Board selected by DOE. The Board will provide a report for the record at the conclusion of the hearing and prior to the final EIS. The Presiding Board shall not attempt to undertake a resolution of issues or render judgments concerning the SRC–II Demonstration plant operations.

The public hearing will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. In order to faciliate arrangements for the public hearing, those wishing to participate orally or in writing are requested to contact the following by June 20, 1980: James K. Alexander, Department of Energy, SRC–II Public Hearing, P.O. Box E, Oak Ridge, Tennessee 37830; phone: (615) 576–0849.

Written comments or suggestions may also be submitteed prior to the public hearing. Written and oral comments will

be given equal weight. Speakers are requested to provide a telephone and mailing location so that they can be contacted prior to the hearing regarding scheduling information.

Persons who have not submitted a request in advance may register to speak at the public hearing. DOE reserves the right to arrange the schedule of presentations to be heard in order to maximize the number of participants and assure a broad spectrum of viewpoints. However, the actual allocation of time for speakers will depend upon the number of persons requesting to be heard. DOE may allow more time for representatives of organizations than for persons speaking in an individual capacity.

Those persons wishing to speak on behalf of an organization should identify their organizational affiliation in their request. Should any speaker desire to provide further information for the record subsequent to the meeting, it may be submitted in writing by July 19, 1980.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the Board at the start of the hearing.

A transcript of the public hearing and the Presiding Board's report will be made available for inspection at the Public Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue, NW, Washington, DC 20585, between 8:00 a.m. and 4:30 p.m., Monday through Friday, and at the Morgantown Public Library.

Upon completion of the final EIS, its availability will be announced in the **Federal Register**. Copies of the Documents currently being used in preparation of the final EIS are available for inspection at:

Morgantown Library, 373 Spruce Street, Morgantown, West Virginia 26505; Attn: Elliott Horton.

West Virginia Library Commission, Charleston, West Virginia 25305; Attn: Shirley Smith.

West Virginia University Library, Reference Department, Morgantown, West Virginia 26505; Attn: Clifford Hamerick.

Issued in Washington, D.C., on June 10, 1980.

Roger W. A. LeGassie,

Acting Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 80–17955 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–TA–80–03]

Allegheny Production Co., Inc.; Issuance of Proposed Decision and Order

Notice is hereby given that the Economic Regulatory Administration has issued to Allegheny Production Company, Inc. (Allegheny) a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78(a)(2) of the Tertiary Enhanced Recovery Program. Under the provisions of 10 CFR 205.98, such a Proposed Decision and Order must be published in the **Federal Register.** Interested parties have thirty calendar days from the date of publication to submit objections or comments. Upon review of any matters submitted, we may issue a final Decision and Order in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or comments will be notified of the action taken and will be furnished a copy of that action. Objections or comments should cite the docket number and be addressed to: Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461; Attention: Chief, Branch of Crude Oil Production.

A copy of the text of the Proposed Decision and Order together with a copy of Allegheny's application is available in the Public Affairs Office, Room B–110, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays) and the Department of Energy Reading Room, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

Issued in Washington, D.C., on June 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–17947 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

Big "6" Drilling Co., Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: May 29, 1980.

COMMENTS BY: On or before July 14, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P. O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P. O. Box 35228, Dallas, Texas 75235, phone 214/767–7745.

SUPPLEMENTARY INFORMATION: On May 29, 1980, the Office of Enforcement of the ERA executed a Consent Order with Big "6" Drilling Company of 1228 Bank of the Southwest Building, Houston, Texas 77002. Under 10 CFR 205.199J(b), the Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Big "6" Drilling Company, with its office located in Houston, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Big "6" Drilling Company entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through December 31, 1977 and it included all sales of crude oil which were made during that period.

2. Big "6" Drilling Company allegedly misapplied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Big "6" Drilling Company have agreed to a settlement in the amount of $50,000.00. The negotiated settlement was determined to be in the public interest

as well as the best interests of the DOE and Big "6" Drilling Company.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with the Consent Order.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Big "6" Drilling Company agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $50,000 within thirty (30) days of the effective date of this Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlement) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Big '6' Drilling Company Consent Order." We will consider all comments we received by 4:30 p.m., local time, on July 14, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 6th day of June, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80–17946 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

Gibbs Oil Co. Petition for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that, on May 19, 1980, Gibbs Oil Company (Gibbs), in accordance with the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b), filed a petition for permission to use multiple allocations. The application, if granted, would permit Gibbs to use separate allocation fractions for the distribution of motor gasoline in Petroleum Administration for Defense Districts I and III.

A copy of Gibbs' application, with proprietary information deleted, may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street, N.W., Washington, D.C. 20461.

COMMENTS BY: June 23, 1980.

ADDRESS: Send comments to: Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461. Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street, N.W., Washington, D.C. 20461. Telephone: (202) 653–3431.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue, N.W., Washington, D.C. 20585. Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 9th day of June 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–17944 Filed 6–12–80; 8:45 am]

BILLINIG CODE 6450–01–M

Thunderbird Resources, Inc., Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Opportunity for Public Comment.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that, on May 7, 1980, Thunderbird Resources, Inc. (Thunderbird), in accordance with the provisions of 10 CFR 205.90 et seq. and § 211.10(b) filed an application for permission to use multiple motor gasoline allocation fractions. The relief, if granted, would permit Thunderbird's Big West-Western marketing subsystem, which markets in portions of the States of Washington, Idaho and Oregon; and Flying J, Inc. (Flying J), which markets in portions of California, Nevada, Oregon, and Utah, to have a single allocation fraction while the Westco subsystem, which markets in southeast Idaho and central Montana, and the Williston subsystem, which markets in eastern Montana and North Dakota, would each have a separate allocation fraction.

Flying J of Brigham City, Utah, a wholesale purchaser-reseller as defined in § 211.51, acquired the petroleum refinery and marketing operations of ICG Vista Petroleum, Inc. (ICG Vista), including the capital stock of ICG Vista's subsidiary, Thunderbird, on April 1, 1980.

A copy of Thunderbird's application, with proprietary material deleted, may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street, NW., Washington, D.C. 20461.

COMMENTS BY: June 23, 1980.

ADDRESS: Send comments to: Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street, NW., Washington, D.C. 20461. Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street, NW., Washington, D.C. 20461. Telephone: (202) 653–3431.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue, NW., Washington, D.C. 20585. Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 9th day of June 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–17945 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

Energy Supply and Environmental Coordination Act; Notice of Effectiveness of Prohibition Orders

To: New England Power Company, 20 Turnpike Road, Westborough, Massachusetts 01581; attention: Mr. J. F. Kaslow, President.

Docket No.	Owner	Installation	Unit	Location
OFC–075–077	New England Power Co./New England Electric System	Brayton Point	1 2 3	Somerset, Mass.

On June 30, 1977, the Federal Energy Administration issued Prohibition Orders to the above listed powerplants pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, (15 U.S.C. 791 *et seq.*). Those orders stated that they would become effective on the date(s) specified in a Notice of Effectiveness (NOE), to be served on the powerplants subsequent to issuance of the Prohibition Orders.

Pursuant to 10 CFR 303.10(b), 303.37 and 305.7, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) [1] hereby gives notice that the Prohibition Orders issued June 30, 1977, (42 FR 36292, July 14, 1977) to the above listed powerplants are effective on the date of service of this NOE. The provisions in those orders which prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source are effective as follows:

The effective date of the prohibitions as to Unit 1 shall be July 31, 1982.

The effective date of the prohibitions as to Unit 2 shall be January 31, 1982.

The effective date of the prohibitions as to Unit 3 shall be December 31, 1983.

These dates are subject to revision by ERA, at its discretion, if unanticipated delays occur in manufacturers' and contractors' construction schedules, which delays are beyond New England Power Company/New England Electric System's control.

Pursuant to 10 CFR 303.7, service of this NOE is complete upon mailing.

In accordance with the provisions of the Clean Air Act (42 U.S.C. 1857 et seq.) [Section 119(d)(1)(B)] which were in effect at the time the subject orders were issued, and in accordance with the requirements of the Clean Air Act, as amended (43 U.S.C. 7413(d)(5), and Section 112 of the Clean Air Act Amendments of 1977, (Pub. L. 95–95), the Environmental Protection Agency (EPA) certified to DOE, by letter dated January 31, 1980, that July 31, 1982, January 31, 1982, and December 31, 1983, are the earliest dates upon which Units 1, 2, and 3, respectively, could burn coal and comply with the air pollution control requirements (regional limitation) applicable to those units. A copy of the EPA letter is attached to this Notice.

In accordance with the provisions of the National Environmental Policy Act of 1969, a final Environmental Impact Statement (DOE/EIS/0036–F) was completed and signed in September 1979. The draft EIS was published in October 1978 and public hearings were held in Somerset, Massachusetts, on November 21 and 22, 1978.

As provided in the June 30, 1977, Prohibition Orders, any person aggrieved by such orders may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR, Part 303, Subpart H. The appeal must be filed within 30 days after the service of this Notice. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR, Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the Order and service of this NOE, shall be filed within 30 days of service of this Notice. Application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after this Notice is served.

All terms and conditions of the Prohibition Orders and this Notice may be the subject either of an appeal or an application for modification or rescission.

If an application for modification or rescission of a Prohibition Order is made in accordance with Subpart J of Part 303, any appeal of the Order under Part 303, Subpart H shall be suspended until 30 days after an Order has been issued in accordance with Subpart J or until 30 days from the date on which such application for modification or rescission may be treated as having been denied in all respects.

The Prohibition Orders made effective by this Notice are effective against any persons that, as of the date of service of this NOE, own, lease, operate, or control the above-named powerplants, and against any successors-in-interest or assignees of such persons.

Any terms utilized in this Notice have the same meaning as such terms have in 10 CFR, Parts 303 and 307.

Any questions regarding this Notice should be directed to Steven A. Frank, Chief, ESECA Progdrams Branch, Office of Fuels Conversion, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3701.

Issued in Washington, D.C., June 4, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–17948 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act, Pub. L. No. 95–91.

[Docket No. ERA-TA-80-03]

Proposed Decision and Order; Under the Tertiary Incentive Program

To: Allegheny Production Company, Inc., Clarksburg, West Virginia; Subject: Designation of allowed expenses for Deerwalk Field Electro-osmotic Enhanced Oil Recovery Project.

I. Introduction

On December 17, 1979, the Allegheny Production Company, Inc. (Allegheny) of Clarksburg, West Virginia, a subsidiary of the Allegheny Land and Mineral Company, Inc., submitted an application pursuant to section 212.78(e)(2) of the Department of Energy's Tertiary Incentive Program for an order which would designate it as a qualified producer with respect to a project employing an enhanced oil recovery (EOR) technique which is not self-certifiable pursuant to section 212.78(c) of the regulation. The order also would set forth the allowed expenses that Allegheny would be permitted to recover with respect to that project. Supplemental information in regard to its application was received from Allegheny on January 21, 1980.

II. Background

On August 21, 1979, the Economic Regulatory Administration (ERA) amended 10 CFR 212.78 to establish the Tertiary Incentive Program. In general, this program permits producers which are engaged in EOR projects to recover a portion of the costs associated with such projects.

Section 212.78(e)(2) authorizes ERA to issue an order designating a producer as a qualified producer with respect to a particular project which does not employ a self-certifiable EOR technique, but nevertheless involves high levels of risk and of cost, and setting forth what the allowed expenses will be with respect to that project. An allowed expense is seventy-five percent of an environmental expense (as defined in section 212.78(c)), seventy-five percent of an engineering and laboratory expense (as defined in section 212.78(c)), or seventy-five percent of an expense listed in the Appendix to section 212.78. As provided in ERA's General Guidelines on Tertiary Enhanced Recovery Project Review (Guidelines), when applying for issuance of an order pursuant to section 212.78(e)(2), a producer must demonstrate that it is employing an EOR technique which involves high levels of risk and cost, and that the offset of certain costs is necessary to make the use of that technique an attractive investment opportunity.

The Allegheny application concerns a project which will use an electrical EOR technique which is not self-certifiable under section 212.78(c). Therefore, Allegheny has requested an order from ERA under section 212.78(e)(2) designating it a qualified producer engaged in the initiation of a tertiary project that involves high levels of risk and of cost and that sets forth what the allowed expenses will be with respect to that project.

III. Findings and Analysis

The Allegheny application concerns an oil recovery project employing electrical technology to be undertaken on certain leases in the Deerwalk Field in Wood County, West Virginia.

The EOR technique which Allegheny will employ at the Deerwalk site is an electrical technique developed by The Electrothermic Company (Electrothermic) of Corpus Christi, Texas. According to Allegheny, Electrothermic has obtained six U.S. Patents on electrical enhanced oil production techniques, No. 3,507,330, September 30, 1968; No. 3,547,193, December 15, 1970; No. 3,605,888, September 20, 1971; No. 3,614,986, October 26, 1971; No. 3,620,300, November 16, 1971; and No. 3,642,066, February 15, 1972. Allegheny has arranged to use Electrothermic's technology for application at the Deerwalk site. Allegheny states that there are three electrical processes involved in the total Electrothermic technology.

Two of the processes will be employed in Allegheny's Deerwalk Project. The technology can be explained with a brief outline of all three processes as they were developed by Electrothermic.

The first process is characterized as the hot tube process. The hot tube process was designed to increase oil production of high pour point (paraffin) and low gravity viscous crudes. This is accomplished by heating the entire down hold flow string (tubings, sucker rods, and down hole pump) with high voltage (440–480 v.), single phase, alternating current (AC). Lower voltage can be utilized if energy requirements are less. The concept is to heat the flow string, warm the crude and thereby increase production.

The second process is designated "electrothermic". The electrothermic process evolved from the hot tube process to solve further production problems associated with low gravity and high paraffinic crudes. Emphasis was placed on solving flow problems outside the bore hold in the formation itself, as well as in the production string. To accomplish both tasks, the electrothermic process channels electricity into the well exactly as in the hot tube process, except that the down hold electrodes induce the electricity directly into the formation and not the casing. The concept is to impart large quantities of electrical energy into the formation, thereby generating heat within the formation, outside the bore hole.

The third process, and last to be developed is electro-osmosis. The electro-osmotic process utilizes many of the same components and has the same insulating requirements as the electrothermic and hot tube processes, but the process is conceptually quite different. The concept is to establish electrical communication between different wells through the producing horizon, thereby establishing an electrical magnetic field. This is accomplished by inducing a positive charge in one well via the insulated tubing down to the formation and simultaneously providing the negative ground in the formation around an adjoining well. The current use is single phase 440–480 volt, pulsating direct current (DC). The process is analagous to an electromagnet, and the basic idea originated from the original Millikan "oil drop" experiments.

Because of the normal differences in polarity between crude oil and formation water, the oil is attracted to one well and the formation water is attracted to the other well. Whether the oil or water is attracted to the anode(+) or cathode(−) depends entirely on the individual polarity of the oil and water in a particular reservoir. The oil collects around the production well and the formation water collects around the stimulation well. The oil is pumped out through the tubing from the production wells and the formation water is left standing around the opposite bore hole of the stimulation wells. If, as can sometimes happen, both fluids have the same polarity, then both fluids would be attracted to the same bore holes and the oil and water would be pumped from the formation at all locations. Separation would then occur on the surface. The three electrical processes have fairly similar electric requirements and there are many common items of equipment. Allegheny plans to employ the electrothermic and electro-osmotic processes on its Deerwalk project. In view of the similarity of the equipment required for both processes, both may be tested efficiently and conveniently.

Before issuing an order finding a producer to be a qualified producer engaged in a tertiary project and

allowing the offset of certain project costs, § 212.78 requires that ERA must determine that:

1. the producer has an interest in the properties on which the project is located;

2. the producer contributes to the initiation or expansion of the project which is the subject of the application;

3. the project employs a tertiary enhanced recovery technique;

4. the application of that technique involves high levels of risk and cost; and

5. the offset of certain costs is required to make the project an attractive investment opportunity.

Allegheny has provided information stating that it holds mineral leases on a number of properties located in Wood County, West Virginia, and that it is on these properties that the electro-osmosis project is to be undertaken. The leases are listed in the ordering paragraphs of this Proposed Decision and Order. By virtue of Allegheny's holding mineral leases on the properties in question, ERA has determined that Allegheny has the requisite interest in the properties on which the electro-osmosis project is to be located, and, thus, satisfies the first requirement for designation as a qualified producer.

Allegheny's application demonstrates a scheduled program of investment on the designated properties for the purpose of carrying out the recovery of crude oil through the electro-osmosis process. Allowing for some program changes as a result of the necessary experimentation and attempts to accommodate to unanticipated events as they occur, the total capital expenditure will approximate $3,500,000 in 1980 dollars. On the basis of this information, we have determined that Allegheny is contributing to the initiation of an oil recovery project which is the subject of its application to ERA, and, therefore, satisfies the second requirement for designation as a qualified producer.

The electric technique Allegheny proposes to employ at the Deerwalk project is not similar to any of the self-certifiable techniques listed in section 212.78(c). It is highly experimental, more so than other techniques which are currently included in the Tertiary Enhanced Oil Recovery Program. However, the fact that a proposed oil recovery technique is out of the ordinary or highly experimental does not disqualify it from consideration for participation in the tertiary enhanced recovery program of § 212.78.

Allegheny's application states that the eclectrothermic technique has been field tested in southwest Texas in 300 foot wells into a payzone of 11° API crude where zero production was raised from six to ten barrels of oil per day (BOPD) maintained over eight years. In eastern Utah, production was raised from 4 to 50 BOPD. The electro-osmosis technique, in a Medina County, Texas field test in the Olmos Sand, increased production from 0.25 BOPD to 4.5 BOPD.

The Allegheny application was referred for review to the Office of the Deputy Assistant Secretary for Oil, Gas and Shale Technology in the Office of Fossil Energy, DOE. That office expressed the view that Allegheny's project should be allowed to participate in the tertiary program because "there appears to be a possibility of positive results". That office points out that the "background and patents originating from the Electrothermic Company . . . give some chance of success . . .".

On the basis of our evaluation of the information submitted by Allegheny, and the comments of the Office of Fossil Energy in DOE, we have determined that the electro-osmosis is a tertiary enhanced recovery technique within the meaning of 10 CFR 212.78.

Although technical efficacy has been demonstrated in laboratory experiments, and one field test was successful, electro-osmosis remains untried in field application. Not only is the possibility of process failure high, but several risks arise from reservoir rock and fluid characteristics. The oil bearing formation to be treated may be too resistive to achieve efficient electric energy communication between wells—or so thin, together with bottom water, that the electric energy exceeds that which is necessary, so that diseconomies result.

A risk of particular importance concerns reservoir permeability. The permeability of the Maxton Sand, in which the techniques of the Deerwalk project are to be applied, is 2.0 millidarcies. There has never been a field test made in reservoirs of less than 100 millidarcies. No test has ever been conducted in the Appalachian Basin.

The capital and operating cost schedules submitted by Allegheny reveal that high costs will be encountered in the initiation and conduct of its electro-osmosis project. These costs will be incurred, after initiation of the project, over a continuing period of eight or more years. On the basis of the information submitted by Allegheny and our evaluation of that information, we have determined that the application of the electro-osmosis process does involve high levels of risk and cost.

In view of the experimental nature of this project and the extraordinary risks involved, we believe a limited designation of allowed expenses will be sufficient to make the project an "attractive investment opportunity". Therefore, ERA has determined that Allegheny should be allowed those costs which are uniquely associated with the electrical technique which it proposes to employ. In addition ERA finds that Allegheny should be allowed those general expenses associated with oil field operations that are specified under the self-certifiable techniques involving the highest risks, to the extent they are applicable to the Allegheny Deerwalk project. Accordingly, the ERA is proposing to designate the following allowed expenses, in addition to the allowed costs for engineering and laboratory and environmental expenses as specified in section 212.78(c):

1. Well costs;

2. The costs of electrical equipment and insulation required to install the electrical oil recovery technique including surface, subsurface and safety installations;

3. The cost of instrumentation and control equipment;

4. The cost of electricity needed to induce the initial electro-magnetic field in the producing horizon.

IV. Comment Procedures

10 CFR 205.98 requires this Proposed Decision and Order to be published in the **Federal Register** and sets forth the procedures for entering objection or comment on this Proposed Decision and Order. Objections or comments must be received by July 14, 1980.

All submissions with respect to this application will be available for public inspection in the DOE Reading Room, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the Hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the Public Affairs Office, Room B–110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

V. Order

1. Allegheny Production Company, Inc. of Clarksburg, West Virginia is certified as a qualified producer with respect to the properties named below and located in the Deerwalk Field of Wood County, West Virginia: the John Lennart Tract, J. W. Roberts Farm, Elizabeth Snyder Farm, Elbert F. Brewer Farm, J. W. Coplin Farm, Elmer Marshall Lease, J. P. Marshall Farm, and Mary Marshall Farm.

2. The following expenses in addition to environmental expenses and engineering and laboratory expenses are declared to be allowed expenses for the

Deerwalk Field Electro-osmotic Project undertaken by Allegheny Production Company, Inc. in the Deerwalk Field in Wood County, West Virginia:

1. Well costs; as defined in 212.78(c)
2. The costs of electrical equipment and insulation required to install the electrical oil recovery technique including surface, subsurface and safety installations;
3. The cost of instrumentation and control equipment;
4. The cost of electricity needed to induce the initial electromagnetic field in the producing horizon.

In all other respects, Allegheny's application for the designation of allowed expenses is hereby denied.

3. This Order is based on the presumed validity of statements, assertions, and documentary materials submitted by Allegheny. It is further based on our understanding that all actual and projected costs reported by Allegheny represent fair and reasonable market price valuation for the expenditures involved, that all actual and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost, revenue and production estimates are reasonably accurate. This Order may be revoked or modified upon a determination that the factual basis underlying the Order is incorrect.

4. Pursuant to this Order, any qualified producer with respect to the Wood County project may recover all allowed costs specified herein which were incurred and paid on or after August 22, 1979, so long as such producer is engaged in the project in this Order.

Issued in Washington, D.C., on June 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-17949 Filed 6-12-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-4142, et al.]

Warren Petroleum Co., a Division of Gulf Oil Corp. (Operator), et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificate [1]

June 4, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not service to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandoment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4142, June 5, 1979 [1]	Warren Petroleum Company, a Division of Gulf Oil Corporation, (Operator), P.O. Box 2100, Houston, Texas 77001.	El Paso Natural Gas Company, Lea County, New Mexico.	[2]	14.650
G-5716, D, May 7, 1980	Northern Natural Gas Producing Company, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Finney and Stevens Counties, Kansas.	To release gas for irrigation fuel	
G-5716, D, May 9, 1980	Northern Natural Gas Producing Company	Northern Natural Gas Company, Hugoton Field, Finney and Stevens Counties, Kansas.	To release gas for irrigation fuel	
G-16745, D, May 21, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	United Gas Pipe Line Company, Ada Field, Bienville Parish, Louisiana.	Leases expired	
G-17979, D, May 13, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Transwestern Pipeline Company, Various Fields, Beaver County, Oklahoma.	Deletion of acreage. Applicant no longer holds an interest in the properties involved in this application.	
CI60-76, D, May 23, 1980	Texas Gas Exploration Corporation, P.O. Box 52310, Houston, Texas 77052.	Texas Gas Transmission Corporation, Chacahoula and St. John Areas, LaFourche Parish, Louisiana.	Depleted and continuance of service is unwarranted.	
CI61-1427, D, May 23, 1980	Texas Gas Exploration Corporation	Texas Gas Transmission Corporation, Cartwright and Calhoun Field, Jackson, Parish, Louisiana.	Depleted and continuance of service is unwarranted.	
CI72-757, June 5, 1979 [1]	Warren Petroleum Company, a Division of Gulf Oil Corporation (Operator).	El Paso Natural Gas Company, Lea County, New Mexico.	[3]	14.650
CI77-47, C, May 16, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Northern Natural Gas Company, Eugene Island Block 332 Field, Offshore Louisiana.	[4]	15.025
CI77-122, C, May 14, 1980	Exxon Corporation	Columbia Gas Transmission Corporation, Eugene Island Block 332 Field, Offshore Louisiana.	[3]	15.025
CI77-258, D, May 22, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Phillips Petroleum Company, West Half of Section 418, Block 43, H&TC Survey, Lipscomb County, Texas.	[4]	
CI79-310, C, May 22, 1980	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Ca. 94120.	Pacific Lighting Service Company, Santa Clara Field in Federal waters, Offshore California.	[5]	14.730
CI80-308, F, May 13, 1980	Champlin Petroleum Company (Partial Succ. in Interest to Getty Oil Company) Two Allen Center, 1200 Smith Street, Suite 1900, Houston, Texas 77002.	Natural Gas Pipeline Company of America, Romero Trap Wells County, Texas.	[6]	14.650
CI80-309, B, May 12, 1980	Frank W. Cass, *et al.*, Suite 2555, 2001 Bryan Tower, Dallas, Texas 75201.	Phillips Petroleum Company, Certain acreage in Upton County, Texas.	[7]	
CI80-310, A, May 14, 1980	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Northern Natural Gas Company, Matagorda Island, Block 686, Offshore Texas.	[8]	14.650
CI80-311, F, May 15, 1980	El Paso Exploration Company (Succ. in Interest to El Paso Natural Gas Company), P.O. Box 1492, El Paso, Texas 79978.	El Paso Natural Gas Company, High Island Blocks A-298 and A-309, Offshore Texas.	[9]	14.650
CI80-312, F, May 15, 1980	do	El Paso Natural Gas Company, Rhodes, Langlie Mattix, Crosby, Justis, Quail Ridge and Lea Fields, Lea County, New Mexico.	[10]	14.650
CI80-313, F, May 15, 1980	do	El Paso Natural Gas Company, Blanco and Dakota Fields, Rio Arriba County, New Mexico.	[11]	14.650
CI80-314, F, May 15, 1980	do	El Paso Natural Gas Company, Quinlan NW Field, Woodward County, Oklahoma.	[12]	14.650
CI80-315, F, May 15, 1980	do	El Paso Natural Gas Company, Mayfield NE, Mayfield W, Elk City, Liberty SW, Erick S, Cheyenne W, Reydon W, Reydon SE, and Elk City Fields, in Beckham, Dewey, Roger Mills and Washita Counties, Oklahoma.	[13]	14.650
CI80-316, F, May 15, 1980	do	El Paso Natural Gas Company, Parsell, Hemphill, Mendota SE, Viking, Canadian SE, Howe Ranch, Red Deer Creek, Mendota NW, Canadian SW, Urschel and Pan Petro Fields, Roberts, Hemphill and Ochiltree Counties, Texas.	[14]	14.650
CI80-317, F, May 15, 1980	do	El Paso Natural Gas Company, Canyon Largo Unit No. 95 Gallup formation oil well situated in the Otero Field, Rio Arriba County, New Mexico.	[15]	14.650
CI80-318, F, May 15, 1980	do	El Paso Natural Gas Company, Erick South Field, Greer County, Oklahoma.	[15]	14.650

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI80-319, F, May 15, 1980	do	El Paso Natural Gas Company, Cooper Fields, Lea County, New Mexico.	(16)	14.650
CI80-320, F, May 15, 1980	do	El Paso Natural Gas Company, Cedar Canyon, Corral Draw, Sand Dunes and Rocky Arroyo Fields, Eddy County, New Mexico.	(17)	14.650
CI80-321, B, May 14, 1980	ARCO Oil and Gas Company, a Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Phillips Petroleum Company, Emma (San Andres) Unit, *Tract #2, *(formerly University "A" Lease), Andrews County, Texas.	(18)	
CI80-322 (G-5323), B, May 19, 1980.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Lone Star Gas Company, Krebs 'B' Lease E/2 NW/4 SE/4 Sec. 13-T1S-R4W, Stephens County, Oklahoma.	(19)	
CI80-323 (G-5322), B, May 19, 1980.	Getty Oil Company	Lone Star Gas Company, Krebs 'A' Lease S/2 SE/4 Sec. 13-T1S-R4W, Stephens County, Oklahoma.	(20)	
CI80-324, A, May 15, 1980	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Natural Gas Pipeline Company of America, South Marsh Island Block 107 Field, Offshore Louisiana.	(21)	15.025
CI80-325, E, May 16, 1980 [2]	Gulf Oil Corporation (Succ. in Interest to Woods Petroleum Corporation, P.O. Box 2100, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, Hartzog Draw Area, Campbell County, Wyoming.	(22)	14.650
CI80-326, May 9, 1980	Getty Oil Company	Texas Gas Transmission Corporation, Certain acreage in the Carthage Field, Panola County, Texas.	(24)	14.650
CI80-327, May 14, 1980	Fin-Oil, Inc., P.O. Box 2159, Dallas, Texas 75221	United Gas Pipe Line Company, Castor Field, Bienville Parish, Louisiana.	(25)	15.025
CI80-328, A, May 14, 1980	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77001.	Trunkline Gas Company, East Cameron Block 353, Offshore Louisiana.	(26)	15.025
CI80-329, B, May 20, 1980	Sabine Production Company, 1200 Mercantile Bank Bldg., Dallas, Texas 75201.	Arkansas Louisiana Gas Company, Hartshorne Field, Pittsburg County, Oklahoma.	(27)	
CI80-330 (G-16744), B, May 19, 1980.	Getty Oil Company	Kansas-Nebraska Natural Gas Company, Inc., Cedar Creek Field, Logan County, Colorado.	(28)	
CI80-331 (G-9853), B, May 19, 1980.	Getty Oil Company	Champlin Petroleum Company, N.W. Witcher Field Unit, Oklahoma County, Oklahoma.	(29)	
CI80-332, A, May 20, 1980	Texaco Inc	Natural Gas Pipeline Company of America, East Cameron Block 354, Offshore Louisiana.	(21)	15.025
CI80-333, F, May 21, 1980	Gas Producing Enterprises, Inc., Nine Greenway Plaza, Houston, Texas 77046.	Valero Energy Corporation (Succ. to Coastal States Gas Producing Company), Rodolfo Samano well located in Hidalgo Field, Hidalgo County, Texas.	(30)	14.650
CI80-334, F, May 21, 1980	Gas Producing Enterprises, Inc	Valero Energy Corporation (Succ. to Coastal States Gas Producing Company), Maymie Lammers well located in North Donna Field, Hidalgo County, Texas.	(31)	14.650
CI80-335, A, May 22, 1980	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Ca. 90051.	Tennessee Gas Pipeline Company, Block 58, East Cameron Area, Offshore Louisiana.	(32)	15.025
CI80,336, May 22, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	El Paso Natural Gas Company, Azalea Field, Midland County, Texas.	(33)	14.650
CI80-337, (G-9884), B, May 23, 1980.	Mitchell Energy Corporation, 3900 One Shell Plaza, Houston, Texas 77002.	Tennessee Gas Pipeline Company, Tomball Field, Harris County, Texas.	Lease expired, plugged and abandoned and contract agreement expired by its own terms on May 1, 1980.	
CI80-338, (G-8794), B, May 23, 1980.	Mitchell Energy Corporation	Tennessee Gas Pipeline Company, Huffsmith Field, Harris County, Texas.	Lease expired, plugged and abandoned and contract agreement expired by its own terms on May 1, 1980..	
CI80-339, (CI75-631), B, May 27, 1980.	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Kansas-Nebraska Natural Gas Company, Center of Northeast Quarter of Southeast Quarter of Northwest Quarter of Sec. 32-23S-15W, Pawnee County, Kansas.	(34)	
CI80-340, (CI73-189), B, May 27, 1980.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	El Paso Gas Company, Cedar Canyon Field, Eddy County, New Mexico.	(28)	

[1] For the sale of residue gas from the Monument Gas Processing Plant instead of the Caliche Gas Processing Plant.
[2] Applicant is filing a Letter Agreement date 3-30-79.

[3] Applicant is willing to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditional is accordance with the NGPA of 1978 and the Commission's Regulations under said Act.

[4] No gas was ever available for sale from the lands covered by this Application because the only well drilled on the property was a dry hole and Applicant's lease has been released of record.

[5] Applicant proposes to construct and operate a gas pipeline for the transportation of such gas from Applicant's "Platform Grace 11.7 miles to Platform Hope" (located in California State Waters), and proposes to transport such gas from Platform Hope to Seller's gas plant through an existing pipeline located in California State Waters.

[6] Applicant is filing Gas Sales Contracet dated 11-1-78 and ratified by agreement dated 3-27-79.

[7] Available supply of natural gas in subject property cannot be developed pursuant to the terms and provisions of subject Casinghead Gas Contract, and that the continuance of service is unwarranted.

[8] Applicant is filing under Gas Purchase Contract dated 7-16-79.

[9] By the fourteen (14) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such assignments are effective as of 1-1-80 and Explortion Company requests that the Commission accept the instant filing to be effective on that date.

[10] By the fifteen (15) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignments are effectively as of 1-1-80, and Explortion Company requests that the Commission accept the instant filing to be effective on such date.

[11] By the six (6) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such assignments are effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[12] By the twenty-two (22) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignments are effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[13] By the forty-four (44) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignments are effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[14] By the thirty (30) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignments are effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[15] By assignment dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignment is effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[16] By the two (2) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignments are effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[17] By the eleven (11) Assignments each dated 1-1-80, El Paso conveyed to Exploration Company the properties subject to said Gas Purchase Agreement dated 1-1-80. Such Assignments are effective as of 1-1-80, and Exploration Company requests that the Commission accept the instant filing to be effective on such date.

[18] Phillips Petroleum Company did not have a connection to the Emma (San Andras) Unit and had no plans to make one. The primary term of the contract expired and since no gas was being delivered to Phillips, the contract was cancelled effective 10-11-78. Applicant desires to dedicate any production of its interest in Tract #2 to El Paso Natural Gas Company under its existing Contract with El Paso covering other interests in said unit on file with the Commission as FER Gas Rate Schedule No. 377.

[19] The sale authorized in Docket No. G-5323 is for high pressure gas only. There have been no sales of high pressure gas from the Krebs 'B' lease for approximately 20 years. Getty Oil Company considers the high pressure gas reserves underlying the Krebs 'B' lease to be depleted.

[20] The sale authorized in Docket No. G-5322 is for high pressure gas only. There have been no sales of high pressure gas form the Krebs 'A' lease for approximately 20 years. Getty Oil Company considers the high pressure gas reserves underlying the Krebs 'A' lease to be depleted.

[21] Applicant is filing under Gas Purchase Contract dated 4-17-80.

[22] Effective 3-1-80, Applicant acquired all of Wood's interest in production from certain acreage located in the Hartzog Draw Field, Campbell County, Wyoming, covered by a contract dated 2-14-77.

[23] Applicant is willing to accept a permanent certificate at the maximum lawful price in conformance with Section 104 of the NGPA, in accordance with the area and/or national rate provision contained in the contract dated 2-14-77 between Gulf and Panhandle Eastern.

[24] Applicant is filing for a certificate of public convenience and necessity to continue the sale of its own interest in the Werner-Needham Unit, Panola County, Texas under the terms of a Contract dated August 27, 1953 as amended, between Applicant's predecessor in interest, Skelly Oil Company and Texas Gas Transmission Corporation.

[25] Applicant is filing for a certificate of public convenience and neccessity to continue the sale of its own interest effective as of 1-1-80, in the Caster Field Bienville Parish, Louisiana under the terms of a Gas Purchase and Sales Agreement dated 12-15-77.

[26] Applicant is filing under Gas Purchase Contract dated 9-24-79.

[27] The Lake #2-5 well has a low deliverability and limited reserves. This well was uneconomical for Arkansas Louisiana Gas Company to connect and release agreements have been executed with the other parties in this well. Although the well is still producing, Sabine's portion of the production, under a balancing agreement is still to be produced. An alternate purchaser has been secured who is willing to take and market the gas from the well. It is believed that the reserves in this well are limited and it may deplete in a relatively short time.

[28] The gas reserves underlying the dedicated acreage are not capable of producing gas in commerical quantities, have no recompletion possibilities, and are considered to be depleted. The small remaining gas produced is used for lease fuel.

[29] The N. W. Witcher Field Unit is no longer in effect. The last well was plugged and abandoned on 3-2-79. The gas underlying the unit is considered depleted.

[30] On 12-28-79, Coastal States Gas Corporation assigned 43.75% interest in production from the Rodolfo Samano well to Applicant and Applicant is requesting that the Commission issue it a certificate of public convenience and necessity, pursuant to the provisions of Section 7(c) of the Natural Gas Act authorizing effective 12-28-79, the sale of natural gas produced from Hidalgo Field in accordance with the provisions of Applicant's 8-9-79, contract with Valero.

[31] On 12-28-79, Coastal States Gas Corporation assigned 22.39% interest in the Maymie Lammers well to Applicant and Applicant is requesting that the Commission issue it a certificate of public convenience and necessity pursuant to the provisions of Section 7(c) of the Natural Gas Act authorizing effective 12-28-79, the sale of natural gas produced from North Donna Field in accordance with the provisions of Applicant's 8-9-79, contract with Valero.

[32] Applicant is willing to accept an initial rate of the maximum lawful prive as prescribed in subsection 104(b) of the NGPA of 1978.

[33] Applicant is filing for a certificate of public convenience and necessity to continue the sale of its own interest from the Azalea Field, Midland County, Texas under the terms of a contract dated 5-1-80, presently being made under Parker & Parsley's Small Producer Certificate in Docket No. CS67-25.

[34] Unproductive, and any gas produced will be used as lease fuel. There are no plans to restore The Becker B-1 Well to a commercially productive status in the future.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 80-17795 Filed 6-12-80: 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed Week of April 28 Through May 2, 1980

Notice is hereby given that during the week of April 28 through May 2, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before July 3, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before July 14, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

June 9, 1980.

Remedial Order

Shoreline Texaco, Mill Valley, California, BRO-1169

On April 28, 1980, Ahmad Avash d/b/a Shoreline Texaco, 156 Shoreline Boulevard, Mill Valley, California 94941 filed a Notice of Objection to a Proposed Remedial Order that the DOE Western District Office of Enforcement issued to the firm on March 21, 1980. In the PRO the Western District found that during the period August 1, 1979 to October 26, 1979, Shoreline Texaco committed pricing violations of $297.29 in connection with the sale of motor gasoline in the State of California.

Remedial Order

Johnie's Exxon, Dorchester, Massachusetts, BRO-1168

On April 28, 1980, John Johnson d/b/a Johnie's Exxon, 3 Neponset Avenue, Dorchester, Massachusetts filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on April 4, 1980. In the PRO the Northeast District found that during the period January 31, 1980 to February 14, 1980, Johnie's Exxon engaged in practices that violate DOE regulations in connection with the sale of motor gasoline in the Commonwealth of Massachusetts.

Remedial Order

Washington Street Exxon, Woburn, Massachusetts, BRO-1170

On April 29, 1980, Donald Dauphinee d/b/a Washington Street Exxon, 482 Washington Street, Woburn, Massachusetts filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on March 31, 1980. In the PRO the Northeast District found that during the period December 5, 1979 to February 7, 1980, Washington Street Exxon engaged in practices that violate DOE regulations in connection with the sale of motor gasoline in the Commonwealth of Massachusetts.

[FR Doc. 80-17950 Filed 6-12-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; May 19 through May 23, 1980

Notice is hereby given that during the period May 19 through May 23, 1980, the Proposed Decisions and Orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception

Under the procedures governing the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those procedural regulations, the date of service of notice will be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The procedural regulations also specify that if a Notice of Objection is not received from an aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding of conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of

the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

June 9, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Decisions and Orders

Carr Oil Oil., Franklin, La., DEE–2083, Diesel Fuel

On December 15, 1978, the Carr Oil Company filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Carr to increase retroactively the price which it was permitted to charge on the sale of No. 2 diesel fuel above the maximum levels permitted by regulation, and to retain the revenues derived from such sales during the period November 1, 1973 through March 31, 1974. On May 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

The Columbia Gas System, Inc., Wilmington, Del., DEE–2006; DEE–2017, Natural Gas Liquids, Natural Gas Liquid Products

The Columbia Gas System, Inc. filed an Application for Exception from the provisions of 10 CFR 212.165. The exception request, if granted, would permit Columbia to use a different base period for determining prices of natural gas liquids and natural gas liquid products which it produces. On May 21, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Dale Olson Oil Co., Sioux Falls, S. Dak., BEE–0501, Gasohol

Dale Olson Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Olson to receive an increased allocation of motor gasoline to produce gasohol and regohol. On May 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

DeBlois Oil Co., Pawtucket, R.I., BEE–0001, Gasohol

The DeBlois Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would increase the firm's allocation of motor gasoline so that it could blend and sell gasohol and regohol. On May 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Ethanol Corp., Los Angeles, Calif., BEE–0119, Gasohol

Ethanol Corporation filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Ethanol to receive an allocation of unleaded motor gasoline for the express purpose of blending and marketing gasohol. On May 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Getty Refining and Marketing Co., Tulsa, Okla., BEE–0621–0626, Gasohol

Getty Refining and Marketing Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Getty to increase the base period allocation of motor gasoline at six company-operated retail outlets for purposes of test marketing gasohol. On May 22, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be graned for three months.

Gulf Oil Corp., Tulsa, Okla., BXE–0988, Crude Oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Kiefer Unit for the benefit of the working interest owners at upper tier ceiling prices. On May 22, 1980, the Department of Energy issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Mohawk Petroleum Corp., Inc., Los Angeles, Calif., DEX–0064, Crude Oil

In accordance with Decisions and Orders issued to Mohawk Petroleum Corporation, Inc. which granted the firm exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program) the firm submitted actual financial data for its 1977 fiscal year ended December 31, 1977. On May 22, 1980, after reviewing the level of exception relief granted to Mohawk under the applicable standards, the Department of Energy issued a Proposed Decision and Order which determined that Mohawk should sell $579,102 of entitlements.

Phillips Petroleum Co., Bartlesville, Okla., BEE–0825, Motor Gasoline

Phillips Petroleum Company filed an Application for Exception from the regulatory provisions requiring it to supply motor gasoline under certain circumstances to wholesale purchaser-resellers for delivery to new retail motor gasoline outlets and other specified customers. The exception request, if granted, would exempt the firm from the DOE allocation regulations pertaining to new supplier/purchaser relationships and to the reassignment of suppliers to wholesale purchasers. On May 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Power Test Petroleum Distributors, Westbury, N.Y., BEE–0764, Gasohol

Power Test Petroleum Distributors filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Power Test to receive an increased allocation of unleaded motor gasoline for the express purpose of blending and marketing gasohol. On May 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Randolph Oil Co., Moberly, Mo., BEE–0654, Gasohol

Randolph Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Randolph to receive an increased allocation of motor gasoline to produce gasohol. On May 22, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Southwestern Refining Co., Inc., Washington, D.C., BEE–0136 Crude Oil

Southwestern Refining Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Southwestern of a portion of its entitlement purchase obligations during the period May 1980 through August 1980 to account for crude oil receipts and runs to stills during the period March 1980 through June 1980. On May 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

U.S. Gasohol, Corp., Rector Ark., BEE–0792, Motor Gasoline

U.S. Gasohol Corporation filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit U.S. Gasohol to be as assigned a supplier and base period allocation of unleaded gasoline to blend gasohol. However, U.S. Gasohol showed no current ability to produce and market gasohol. On May 23, 1980, the Department of Energy issued a Proposed Decision and Order which detemined that the exception request be denied.

Valpo Oil Supply, Valaparaiso, Indiana, BEE–0591, gasohol

Valpo Oil Supply filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and sell gasohol. On May 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Van Wert Manufacturing Co., Inc., Peckville, Pennsylvania, BEE–1051

Yukon Industries, St. Paul, Minnesota, BEE–1066

Charmaster Products, Inc., Grand Rapids, Minnesota, BEE–1144

Stadler Corporation, Carlisle, Massachusetts, BEE–1074

Combo Furnace Co., Grand Rapids, Minnesota, BEE–1113

The five firms listed above filed Applications for Exception from the provisions of 10 CFR Part 430. The exception requests, if granted, would permit the applicants to market their combination fuel furnaces and boilers without regard to the energy efficiency test requirements of Part 430. On May 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception requests should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company name, case No., and location

Allied Oil Co., DXE–5784, Kalamazoo, MI
School Board of St. Lucie County, BEE–0960, Ft. Pierce, FL
Sexton Oil Co., BEE–1068, Wartburg, TN

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company name, case No., and location

Boeing Company, DEE–7076, Seattle, WA
E. C. Feagan, Inc., DEE–5598, Hamlin, TX
Homestead Plaza Exxon, DEE–6654, Homestead, FL
McSpadden Pet., Inc., DEE–5779, Muskogee, OK
Tuloil Inc., DEE–2996, Tulsa, OK
Wesco Fuels, Inc., DEE—2584, Clarksburg, WV

[FR Doc. 80–17951 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180444; FRL 1514–5]

South Dakota Department of Agriculture; Receipt of Application for Specific Exemption for Compound 1080; Solicitation of Public Views

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a request from the South Dakota Department of Agriculture (hereafter referred to as the "Applicant") for a specific exemption to use approximately 36.667 pounds of Compound 1080 (sodium monofluoroacetate) to control the blacktail prairie dog on rangeland in fifteen counties of western South Dakota. EPA solicits comments on this request.

DATE: Comments must be received on or before July 14, 1980.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS–793), Room E–447, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767), Room E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, more than one million acres of rangeland in western South Dakota are infested with permanently established colonies of blacktail prairie dogs with population densities increasing annually during each spring breeding season. The Applicant proposed to treat no more than 100,000 acres in Bennett, Butte, Custer, Dewey, Fall River, Haakon, Harding, Jackson, Meade, Pennington, Perkins, Shannon, Todd, Washabaugh, and Ziebach Counties. The Applicant claimed that at least 75 percent of the available forage grown on those 100,000 acres is damaged by prairie dogs. Without treatment, the Applicant estimated a loss of $1,921,830 on that acreage. The Applicant reported that zinc phosphide, strychnine, and other nonpesticidal control methods and materials, such as smoke devices, are available and are being used but that they do not achieve an adequate level of control. The Applicant claimed that the cost of the use of the primary alternative, zinc phosphide, does not compare favorably with Compound 1080. The Applicant reported that last year the total cost of zinc phosphide treatment of 100,000 acres was $850,000; the total cost of Compound 1080 treatment of 100,000 acres is $125,000. The use of Compound 1080 thus represents a savings of $725,000. The Applicant further indicated that a common climatic condition in western South Dakota, early dew caused by a cool night following a hot day, often renders zinc phosphide ineffective.

The Applicant proposes to use rolled oat bait with Compound 1080 as the active ingredient. Applications would not exceed .000367 pound sodium monofluoroacetate per acre or ⅓ pound of bait containing .11 percent active ingredient per acre. All applications will be made by, or under the direct supervision of, applicators State-certified in the category of rodent, predator and bird pest control.

To prevent unreasonable hazard to the environment, the Applicant would consult the South Dakota Department of Game, Fish, and Parks to determine the presence of any endangered species including the blackfooted ferret and the swift fox. Carcasses of all prairie dogs would be buried. Excess bait would be returned to the Applicant for storage until proper disposition could be made. The Applicant stated that Compound 1080 had been used for several years prior to 1973 in western South Dakota for prairie dog control without any known significant adverse effect to either man or the environment.

It should be noted that notice of a rebuttable presumption against registration of rodenticide products containing Compound 1080 when applied by air or used above ground was published in the **Federal Register** of December 1, 1976 (41 FR 52792); restrictions involving underground applications are not in question. However, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

This application is a resubmission of a request the Applicant had previously made, notice of which appeared in the **Federal Register** of January 25, 1980 (45 FR 6164). That request was denied by EPA on March 21, 1980 in a telegram to the Applicant. In this resubmission, the Applicant addressed the reasons for denial.

This notice does not constitute a decision by EPA on the application itself. It has been determined that this application raises questions of such importance that public notice and opportunity for public comment should be given. Accordingly, interested persons may submit written views on this subject to the Document Control Officer at the address given above. The comments must be received on or before July 14, 1980, and should bear the identifying notation OPP–180444. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Document Control Officer at the address given above, from 8 a.m. to 4 p.m. during normal business days.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: June 6, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–17852 Filed 6–12–80; 8:45 a.m.]

BILLING CODE 6560–01–M

[OPP–180442; FRL 1514–4]

U.S. Department of Defense; Issuance of Specific Exemption To Use Paranitrophenol to Control Fungi Which Deteriorate Leather

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the U.S. Department of Defense, Department of the Army, Natick Research and Development Command, (hereafter referred to as the "Applicant") to use paranitrophenol (PNP) to treat leather military articles in order to prevent the rapid deterioration of these articles by fungi. The specific exemption will become effective on June 17, 1980 and will expire June 16, 1981.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–757), Room: E–107, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, the military departments have been treating various leather military articles, of which the most important were boots and shoes, for thirty years. However, this particular use of PNP—treating leather during manufacture for the end use protection of the product against fungal decay—has never been registered.

Without an efficient fungicide, the cost of replacing shoes would increase significantly because of fungal decay, the Applicant claimed. In addition, the issuance of new shoes and other leather equipment would be delayed. The Applicant was confronted with the problem of not having a registered product for use on leather to prevent fungal deterioration while being required for logistical and contractural reasons to plan in advance for large scale procurements.

The Applicant proposes to treat 30 million square feet of leather with an estimated 200,000 pounds of PNP. The value of the items to be made from the treated leather is estimated at $80 million. PNP is applied during the tanning and/or fat liquoring of the leather or other operations of the tanners in preparing finished leather. Specifications are for the level of PNP to be in the range of 0.18 to 0.7% based on the dry weight of the leather.

After reviewing the applications and other available exemption information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 16, 1981. The specific exemption is also subject to the following conditions:

1. Use of the fungicide paranitrophenol (PNP) is authorized;

2. The resulting concentration of PNP may be from 0.18 to 0.7%, based on the dry weight of the leather. Applications will be made during the tanning, fat liquoring, or other operations performed by tanners in the preparation of finished leather;

3. PNP shall be used by personnel of tanning companies that have been awarded a contract by the U.S. Department of Defense;

4. In addition to boots and shoes, the following items will be made from leather treated with PNP: footwear counters, money bags, pocket ammunition magazines, policeman's club carriers, side arm shoulder straps, police security belts, handcuff cases, first aid dressing cases, flagstaff slings, cartridge belt holders, dispatch cases, and dust shields, washers and shock absorbers for weapon systems;

5. None of the items made from PNP-treated leather will be intended for prolonged direct human skin contact;

6. A maximum of 200,000 pounds of PNP may be used;

7. 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 16, 1981; and

8. The EPA shall be informed immediately of any adverse effects resulting from use under this specific exemption and Sec. 18, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C.))

Dated: June 6, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–17853 Filed 6–12–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1515–2]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISS) 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 June 2, 1980, to June 6, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from June 13, 1980, and will end on July 28, 1980. The 30-day review period for final EIS's as calculated from June 13, 1980, will end on July 14, 1980.

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 public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036.

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558–8270.

FOR FURTHER INFORMATION CONTACT: Kathy L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 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 June 2, 1980, to June 6, 1980, the 30-day review period will be calculated from June 13, 1980. The review period will end on July 14, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of June 2, 1980, to June 6, 1980. 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, is listed in this notice. 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 EPA has approved 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 newly established 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 agency.

Appendix V sets forth a list of reports or additional supplemental information relating to 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: June 10, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed with EPA During the Week of June 2 Through 6, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Rural Electrification Administration

Draft

Big Cajun No. 3, and Oxbow Lignite Surface Mine, DeSota, Red River, and Natchitoches Counties, La., June 6: Proposed is the issuance of a loan guarantee for the 540 MW Big Cajun No. 3 Power Station, Unit #1 on the Bayou Pierre site near Armistead, Louisiana, associated 500 Kv and 230 Kv transmission facilities, and the purchase of approximately 150 million tons of lignite from the proposed Oxbow Lignite Surface Mine. The alternatives examine no action, energy conservation, purchase of power, and joint venture. Other alternatives considered concern: 1) energy sources, 2) commercial generation alternatives, 3) power plant facilities and sites, 4) minimg methods and equipment, and 5) transmission. The Parishes of DeSoto, Red River, and Natchitoches would be affected by this project. (EIS order No. 800444).

Final

Holcomb-Spearville 345kV Transmission Facilities, several counties in Kans., June 6: Proposed is the issuance of guaranteed loan funds for the construction of the Holcomb to Spearville 345kV transmission facilities located in the Counties of Finney, Gray, Ford and Hodgemann, Kansas. The plan consists of approximately 70 miles of 345kV transmission line, a new western substation, and a new eastern substation to be constructed and financed by another corporation. The western substation will be constructed on the proposed site for a new coal plant where the new line will tie into the existing 115kV transmission system. Should a new coal-fired generating plant be constructed at that site, the substation would be expanded. (USDA-REA-EIS-(ADM)-79-7-F). Comments made by: EPA, DOI, COE, USDA, AHP, DOT, State agencies. (LEIS order No. 800445.)

U.S. ARMY CORPS OF ENGINEEERS

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, Washinton, D.C. 20314, (202) 272-0121.

Draft

Kikiaola Harbor for Light-Draft Vessels, Hawaii, June 5: Proposed are improvements for the Kikiaola Harbor in Waimea, Island of Kauai, Hawaii. The selected plan consists of: 1) dredging a 725-foot-long access channel, and a 320-foot-long access channel; 2) removing 150 feet of the existing outer east stub breakwater; 4) modifying 220 feet of the existing west breakwater; and 5) removing and constructing an 85-foot-long inner east stub breakwater. The alternatives differ in extent of breakwater modifications, size and location of turning basin and berthing capacity. (Honolulu District), (EIS order No. 800440.)

Draft Supplement

Virginia Beach Stream, Canal #2 Flood Control, Chesapeake County Va., June 5: Proposed is a flood control plan along the Virginia Beach Streams and Canal Number Two in Virginia Beach, Virginia. The plan considers dredging of 520,000 cubic yards of fine sand and mud by bucket or dragline dredge. The material would be disposed of in borrow pits to the east of the canal. In addition to no action, a nonstructural and two structural plans are considered. (Norfolk District), (EIS order No. 800442.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

National Oceanic and Atmospheric Administration

Draft

American Samoa Coastal Management Program, U.S. Territory, June 6: Proposed is a coastal management program for the American Samoa Islands. Approval would allow program administrative grants to be awarded to the Territory and require that Federal actions be consistent with the Program. Implementation of the Program will enhance governance of the Territory's coastal land and water areas and uses according to the coastal policies. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. (EIS order No. 800443.)

Final

Atlantic Bluefin Tuna Fishery, Regulatory, Gulf of Mexico, Atlantic Ocean, June 4: Proposed is the revision of regulations governing the Atlantic and Gulf of Mexico Bluefin Tuna Fishery. The management plan would include: 1) vessel allocation of bluefin tuna within the purse seine fishery, 2) tagging and subsequent recapture of tagged fish within the purse seine fishery, 3) changes in the catch rate and separate quotas within the handgear fishery, 4) tuna dealer reporting, and 5) restrictions on the sale of tuna at sea. Comments made by: EPA, DOI, Groups, individuals and businesses. (EIS order No. 800436.)

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) 755-6300.

Final

Crowfield Plantation, PUD, Charleston, Berkeley County, S.C., June 3: 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 had 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-RO4-EIS-78-17). Comments made by: AHP, USDA, USAF, TVA, DOC, EPA, FEMA, GSA, DOI, HEW, DLAB, State agencies, Businesses. (EIS order No. 800433.)

Youngstoun Planned Development, Mortgage Insurance, Washington County, Md., June 6: Proposed is the issuance of HUD home mortgage insurance for the Youngstoun planned development in Washington County, Maryland. The plan calls for the construction of 596 dwelling units on a 66 acre tract of land. The units would be offered for rent to low and moderate income families. Comments made by: EPA, DOI, USDA, DOT, State agencies. (EIS order No. 800449.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

Fincastle Area Waterline Extension, CDBG, Campbell County, Tenn., June 3: Proposed is the issuance of a CDBG for extension of a waterline in the Dossett Creek of Fincastle, Campbell County, Tennessee. The extension would consist of approximately 14,000 linear feet of eight-inch pipe and will be extended from the existing waterline adjacent to TN-63. The extension would serve approximately 240 people. In addition to no action an alternate location for the waterline extension is considered. Comments made by: EPA, DOI, DOT, local agencies. (EIS order No. 800434.)

Poor Farm Ridge Waterline Extension CDBG, Campbell County, Tenn., June 3: Proposed is the issuance of a CDBG for extension of a waterline for the Poor Farm

Ridge Community, LaFollette, Campbell County, Tennessee. The extensions will consist of 4-inch and 6-inch lines which will be extended from an existing 8-inch line. The lines would serve an area which presently has 70 dwelling units and is still being developed. In addition to no action an alternative location for the waterline extension is considered. Comments made by: EPA, DOI, DOT, USDA, State and local agencies. (EIS order No. 800435.)

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.

Bureau of Indian Affairs

Draft Supplement

Four Corners-Ambrosia-Pajarito, Transmission, several Counties in New Mexico, June 5: Proposed is the granting of right-of-way for the construction of the Four Corners-Ambrosia-Pajarito 500 kV transmission line extending from San Juan County, through McKinley and Valencia Counties, to Bernalillo County, New Mexico. The line would connect the Four Corners Power Plant to the Ambrosia Station and the proposed Pajorito Station. The length of the line would be approximately 173 miles. The alternatives consider: 1) no action, 2) use or upgrading of existing lines, 3) alternate routes, 4) construction of a direct current line, and 5) undergrounding. This statement supplements final EIS, No. 771009, filed 8–18–77. (DES–80–37), (EIS order No. 800437.)

Bureau of Land Management

Draft

San Juan Livestock Grazing Management Program, San Juan, Rio Arriba, and Sandoval Counties, N. Mex., June 5: Proposed is implementation of a livestock grazing management program for the San Juan Planning Unit in San Juan, Rio Arriba and Sandoval Counties, New Mexico. The program proposes to allocate vegetation to livestock, big game, and wildhorses; determine the levels of livestock grazing management; identify needed livestock support facilities; outline a general implementation schedule; list the standard procedures for operation, and coordinate with other programs in the region. The alternatives consider: 1) no action, 2) elimination of livestock grazing, 3) maximization of livestock forage production, and 4) enhancement of other resource values. (DES–80–39), (EIS order No. 800438.)

Water and Power Resources Services

Draft

New Melones Lake, Allocation and Operation, Calaveras and Tuolumne Counties, Calif., June 5: Proposed are alternatives for water allocation and reservoir operations for New Melones Lake on the Stanislaus River in Calaveras and Tuolumne Counties, California. The alternatives pertain to: 1) use of the available New Melones water supply in potential alternative Stanislaus River Basin Areas and possible allocation in adjacent local areas along with other areas of the Central Valley Project; and 2) operation of New Melones Reservoir as authorized along with three alternative storage operating levels. (DES–8–38), (EIS order No. 800439.)

MISSOURI RIVER BASIN COMMISSION

Contact: Mr. Millard W. Hall, Chairman, Missouri River Basin Commission, Suite 403, 10050 Regency Circle, Omaha, Nebraska 68114, (402) 397–5714.

Draft

Missouri River Basin Water Resources Management Plan, several counties, June 3: Proposed is a management plan for the Missouri River Basin water and related land resources. The plan includes approximately 550 data collection, research, special study, river basin planning, feasibility study and implementation programs. The implementation programs include 33 flooding projects, 200 small watershed projects, and 28 irrigation projects. The Missouri River Basin encompasses all or portions of the following States: Nebraska, Montana, South Dakota, Wyoming, Kansas, Missouri, North Dakota, Colorada, Iowa and Minnesota. (EIS order No. 800432.)

DEPARTMENT OF TRANSPORTATION

Contract: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

Wolf Creek Pass-East/US-160, Mineral and Rio Grande Counties, Colo., June 5: Proposed is the construction of the Wolf Creek Pass-East on US 160 from the top of the pass to the junction of US 160/CO-149 in Mineral and Rio Grande Counties, Colorado. The facility would extend for 19.5 miles. The alternatives consider five design alternatives and no build. Two alternatives would extend through a portion of the Rio Grande National Forest (FHWA–COLO–EIS–80–01–D). (EIS Order No. 800441.)

Northriver Drive, Maple Street to Mission Street, Spokane County, Wash., June 3: Proposed is the construction of Northriver Drive between Maple Street and Mission Avenue in the City and County of Spokane, Washington. The facility would be from 3.2 to 3.6 miles in length of which from 1.1 to 1.7 miles would be new roadway, with the remaining portion following existing streets. Parts of the drive would be two-lane and parts four-lane. Bike and jogging paths would run the full length of the facility and the design would include parkway-type landscaping. The alternatives consider no action and seven build alternatives. This statement also serves as the EIS for the issuance of a COE Section 404 permit (FHWA–WA–EIS–80–03–D). (EIS Order No. 800431.)

National Highway Traffic Safety Administration

Final

MY 82 Trucks Average Fuel Economy Standards, Regulatory, June 6: Proposed are average fuel economy standards for light trucks for model year 1982. The term "light truck" includes pick-up trucks, vans, and four-wheel-drive general utility vehicles which have a gross vehicle weight rating up to and including 8,500 pounds, a curb weight of 6,000 pounds or less, and a frontal area of less than 45 square feet. The final standards have been raised to 18.0 mpg for 2-wheel drive vehicles and 16.0 mpg for 4-wheel vehicles. The draft EIS, #791287, filed 12–27–79, addressed standards for 1982 through 1985. This final EIS only concerns itself with 1982 standards. Comments made by: DOT, EPA, (EIS Order No. 800446).

Urban Mass Transportation Administration

Final

Los Angeles Downtown People Mover Project, Los Angeles, Calif., June 6: Proposed is the issuance of federal capital grant assistance for the Downtown People Mover (DPM) transit project in the central business district of the City and County of Los Angeles, California. The DPM would be a completely automated, grade-separated circulation/distribution system of approximately 3 miles in length, linking 13 stations in downtown Los Angeles. The project requires: 1) purchase of right-of-way, 2) purchase and installation of a transit system, 3) 60 transit vehicles, and 4) a storage and maintenance facility to be constructed at Union Station. Comments made by: GSA, USDA, HUD, DOI, DOT, EPA, State and Local Agencies, Groups and Individuals, (EIS Order No. 800448).

EIS's Filed During the Week of June 2, 1980 through June 6, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Atlantic Ocean		Final	Atlantic Bluefin Tuna Fishery	800436	June 4, 1980	DOC
California	Calaveras	Draft	New Melones Lake, Allocation and Operation	800439	June 5, 1980	DOI
	Los Angeles	Final	Los Angeles Downtown People Mover Project	800448	June 6, 1980	DOT
	Tuolumne	Draft	New Melones Lake, Allocation and Operation	800439	June 5, 1980	DOI
Colorado	Mineral	Draft	Wolf Creek Pass-East/US–160	800441	June 5, 1980	DOT
	Rio Grande	Draft	Wolf Creek Pass-East/US–160	800441	June 5, 1980	DOT
Gulf of Mexico		Final	Atlantic Bluefin Tuna Fishery	800436	June 4, 1980	DOC
Hawaii		Draft	Kikiaola Harbor for Light-Draft Vessels	800440	June 5, 1980	COE

EIS's Filed During the Week of June 2, 1980 through June 6, 1980—Continued

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Kansas	Several	Final	Holcomb-Spearville 345kV Transmission Facilities	800445	June 6, 1980	USDA
Louisiana	DeSota	Draft	Big Cajun No. 3, and Oxbow Lignite Surface Mine	800444	June 6, 1980	USDA
	Natchitoches	Draft	Big Cajun No. 3, and Oxbow Lignite Surface Mine	800444	June 6, 1980	USDA
	Red River	Draft	Big Cajun No. 3, and Oxbow Lignite Surface Mine	800444	June 6, 1980	USDA
Maryland	Washington	Final	Youngstoun Planned Development, Mortgage Insurance.	800447	June 6, 1980	HUD
New Mexico	Several	Supplement	Four Corners-Ambrosia-Pajarito, Transmission	800437	June 5, 1980	DOI
	Rio Arriba	Draft	San Juan Livestock Grazing Mgmt. Program	800438	June 5, 1980	DOI
	San Juan	Draft	San Juan Livestock Grazing Mgmt. Program	800438	June 5, 1980	DOI
	Sandoval	Draft	San Juan Livestock Grazing Mgmt. Program	800438	June 5, 1980	DOI
Regulatory		Final	Atlantic Bluefin Tuna Fishery	800436	June 4, 1980	DOC
		Final	MY 82-85 Trucks Average Fuel Economy Standards.	800446	June 6, 1980	DOT
Several		Draft	Missouri River Basin Water Resources Mgmt. Plan	800432	June 3, 1980	
South Carolina	Berkeley	Final	Crowfield Plantation, PUD, Charleston	800433	June 3, 1980	HUD
Tennessee	Campbell	Final	Fincastle Area Waterline Extension, CDBG	800434	June 3, 1980	HUD
		Final	Poor Farm Ridge Waterline Extension CDBG	800435	June 3, 1980	HUD
US Territory		Draft	American Samoa Coastal Mgmt. Program	800443	June 6, 1980	DOC
Virginia		Supplement	Virginia Beach Stream, Canal #2 Flood Control	800442	June 5, 1980	COE
Washington	Spokane	Draft	Northriver Drive, Maple Street to Mission Street	800431	June 3, 1980	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
MISSOURI RIVER BASIN COMMISSION					
Mr. Millard W. Hall, Chairman, Missouri River Basin Commission, Suite 403, 10050 Regency Circle, Omaha, Nebraska 68114, (402) 397-5714.	Missouri River Basin Water Resources Management Plan.	Draft 800432	June 13, 1980 (See Appendix I).	Extension	August 20, 1980
DEPARTMENT OF INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	New Melones Lake, Stanislaus River, Basin Alternatives, Water Allocations and Reservoir Operations, California.	Draft 800439	June 13, 1980 (See Appendix I).	Extension	August 4, 1980
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Atlantic Bluefin Tuna Fishery, Revisions to Regulations.	Final 800436	June 13, 1980 (See Appendix I).	Waiver	June 13, 1980
DEPARTMENT OF ENERGY					
Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Building, Washington, D.C. 20585, (202) 252-4600.	Solvent Refined Coal-II Demonstration Project, Fort Martin, West Virginia.	Draft 800400	June 2, 1980	Extension	July 21, 1980
DEPARTMENT OF HUD					
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of HUD, 451 7th Street, SW., Washington, D.C. 20410.	Fincastle Area Waterline Extension, CDBG.	Final 800434	June 13, 1980 (See Appendix I).	Waiver	June 13, 1980
	Poor Farm Ridge Waterline Extension, CDBG.	Final 900435	June 13, 1980 (See Appendix I).	Waiver	June 13, 1980

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 number	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. 80-17963 Filed 6-12-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1513-6; PF-186]

Certain Pesticide Chemicals; Filing of Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals on certain raw agricultural commodities.

ADDRESS: Written comments and inquiries should be directed to: Mr. Henry Jacoby, Product Manager (PM) 21, Rm. E-305, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-2562.

Written comments may be submitted while the petition is pending before the Agency. The comments are to be identified by the document control number "[PF-186]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of certain pesticide chemicals on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP OF2349. Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120. Proposes that 40 CFR 180 be amended by establishing tolerances for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite B-(4-chlorophenoxy-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the raw agricultural commodities grapes (fresh) and melons at 0.2 part per million (ppm). The proposed analytical method for determining residues is gas-liquid chromatography with a nitrogen specific detector.

PP OF2351. EM Laboratories, Inc., 500 Executive Blvd., Elmsford, NY 10523. Proposes that 40 CFR 180.382 be amended by establishing tolerances for residues of the fungicide triforine (*N',N'*-(1,4-piperazinediylbis(2,2,2-trichlorethylidene)-bis(formamide) in or on the raw agricultural commodities apricots at 3.0 ppm; peaches at 5.0 ppm; and cherries, nectarines, plums, and prunes at 2.0 ppm. The proposed analytical method for determining residues is gas chromatography with an electron capture detector.

PP OF2352. EM Laboratories, Inc. Proposes that 40 CFR 180.382 be amended by establishing tolerance for residues of the fungicide triforine in or on raw agricultural commodities cucumbers at 0.5 ppm; eggplants and melons at 1.0 ppm; strawberries and tomatoes at 2.0 ppm; and peppers at 5.0 ppm. The proposed analytical method for determining residues is gas chromatography with an electron capture detector.

PP OF2353. EM Laboratories, Inc. Proposes that 40 CFR 180.382 be amended by establishing tolerances for residues of the fungicide triforine in or on the raw agricultural commodities almonds and applies at 0.01 ppm. The proposed analytical method for determining residues is gas chromatography with an electron capture detector.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135))

Dated: June 6, 1980.

Douglas D. Campt,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-17859 Filed 6-12-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1513-2; OPP-50433B]

Ciba-Geigy Corp.; Amendment To Experimental Use Permit for N-(2,6-Dimethylphenyl)-N-(Methoxyacetyl)-Alanine Methyl Ester.

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has amended an experimental use permit issued to Ciba-Geigy Corp. for use of 1,543 pounds of the fungicide on potatoes to evaluate control of late blight and early blight by adding the State of Montana.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 12, Room E-305, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/755-2562.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 27, 1979 (44 FR 37553), information appeared pertaining to the issuance of an experimental use permit, No. 100-EUP-1, to Ciba-Geigy Corp., Greensboro, NC 27409, under provisions of the Federal Insecticide, Fungicide, and Rodenticide Act. At the request of the company, that permit has been amended. The program is now authorized in the State of Montana. All conditions and limitations of the expermintal use permit remain the same.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C.))

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 17862 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1513-8; PP 3G1316/T243]

E. I. du Pont de Nemours & Co.; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed the temporary tolerances for residues of the insectide oxamyl (methyl-*N'*,*N'* dimethyl-*N*[methylcarbamoyl)oxy]-1-thiooxamimidate in or on the raw agricultural commodities peanuts at 0.1 part per million (ppm) and peanut hulls at 0.2 ppm.

DATE: These temporary tolerances expire May 8, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Hutton, Acting Product Manager (PM) 12, Registration Division (TS-767), Rm. E-303, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-2635.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 14, 1978 (43 FR 58430) EPA announced the renewal of temporary tolerance for residues of the insecticide oxamyl (methyl-*N'*,*N'* dimethyl-*N*[methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodities peanuts at 0.1 ppm and peanut hulls at 0.2 ppm. The tolerances were renewed in response to a pesticide petition (PP 3G1316) submitted by E. I. du Pont de Nemours & Co.

E. I. du Pont de Nemours & Co. requested an 18-month renewal of the temporary tolerances to permit continued testing to obtain additional commodities when treated in accordance with the provisions of a renewed experimental use permit under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the insecticide to be used must not exceed the quantity authorized by the experimental use permit.

2. E. I. du Pont de Nemours & Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 8, 1981. Residues not in excess of 0.1 ppm in or on peanuts and 0.2 ppm in or on peanut hulls after the expiration date will not be considered actionable if the insecticide is legally applied during the term of, and in accordance with the 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 insecticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j))

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-17857 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1514-1; PP 6G1811/T244]

E. I. du Pont de Nemours & Co.; Renewal of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed the temporary tolerance for residues of the insecticide oxamyl (methyl-*N'*,*N'* dimethyl-*N*[methylcarbamoyl)oxy]-1-thiooxamimidate in or on the raw agricultural commodity cottonseed at 0.2 part per million (ppm).

DATE: This temporary tolerance expires May 8, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Hutton, Acting Product Manager (PM) 12, Registration Division (TS-767), Rm. E-303, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-2635.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 14, 1978 (43 FR 54829) EPA announced the establishment of a temporary tolerance for residues of the insecticide oxamyl (methyl-*N'*, *N'* dimethyl-*N*[methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodity cottonseed at 0.2 ppm. The tolerance was established in response to a pesticide petition (PP 6G1811) submitted by E. I. du Pont de Nemours & Co.

E. I. du Pont de Nemours & Co. requested an 18-month renewal of the temporary tolerance to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit being renewed concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the insecticide to be used must not exceed the quantity authorized by the experimental use permit.

2. E. I. du Pont de Nemours & Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires May 8, 1981. Residues not in excess of 0.2 ppm in or on the above agricultural commodity cottonseed after the expiration date will not be considered actionable if the insecticide is legally applied during the term of, and in accordance with the provisions of, the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this insecticide indicates such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j))

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-17856 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1513-7; PFT-40]

Ethephon; Filing of Tolerance Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of a tolerance petition by Union Carbide Agricultural Products Co., Inc. to permit the use of the pesticide chemical ethephon [(2-chloroethyl) phosphonic acid] in or on saugarcane in accordance with the Federal Food, Drug, and Cosmetic Act, as amended.

ADDRESS: Mr. Robert Taylor, Product Manager (PM-25), Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/755-2196.

Written comments may be submitted while the petition is pending before the Agency. The comments are to be indentified by the document control number "[PFT-40]" and the petition number. All written comments filed pursuant to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: The Union Carbide Agricultural Products Co., Inc., Brookside Ave., Ambler, PA 19002, has submitted a petition (FAP OH5263) to EPA proposing that 21 CFR Part 193 be amended to permit the use of the plant growth regulator ethephon [(2-chloroethyl) phosphonic acid] in or on sugarcane in connection with an experimental use program with a tolerance limitations of 7.0 parts per million (ppm) in molasses and 1.0 ppm in raw sugar.

(Sec. 409 (b)(5), 68 Stat. 512 (7 U.S.C. 135)

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

[FR Doc. 80-17858 Filed 6-12-80; 8:45am]

BILLING CODE 6560-01-M

[FRL 1514-3; OPP-180439]

Idaho State Department of Agriculture; Issuance of Specific Exemption To Use Acephate To Control Cutworms and Alfalfa Loopers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Idaho Department of Agriculture (hereafter referred to as "Applicant") to use acephate to control cutworms and alfalfa loopers on 3,000 acres of mint in Idaho. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Donald Rodier, Registration Division (TS-767), Room E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-426-0223.

SUPPLEMENTARY INFORMATION: A complex of cutworm species such as the spotted cutworm (*Amathes c-nigrum*), the black cutworm (*Agrotis ipsilon*), *Diarsia pseudosaria*, and *Euxoa* spp. (referred to as *Euroa* by the Applicant) reportedly have caused serious early damage to mint fields in southwestern Idaho. These cutworms feed on mint roots and stolons. Later on in the season, two other pests, the variegated cutworm (*Peridroma saucia*) and the alfalfa looper (*Autographa californica*) feed on the foliage. Damage from the latter two pests occur from late June through August.

Lannate and Nudrin are registered for this use but the Applicant reports that control results were marginal, mainly because of the dense foliage present, Dyfonate 10G has been used for cutworm control in other areas of Idaho but the Applicant claims that when used with Sinbar, a herbicide, phytotoxicity problems arose.

The Applicant claims that yield losses in untreated mint fields could reach 25-30%, resulting in losses in excess of $600,000. Losses using the registered alternative (methomyl) are expected to be 15-20%. Virtually no losses are anticipated with the proposed use since acephate will provide 90% control of insects.

The Applicant proposed the use of Orthene 75S, EPA Reg. No. 239-2418, which contains the active ingredient (a.i.) acephate. No more than two applications will be made per season at the dosage rate of 1.0 pound a.i. per acre.

Acephate is currently registered for use on lemons, celery, cotton, beans, lettuce, soybeans, and peppers. EPA has determined that total residues of acephate and its metabolite (methamidophos) will not exceed 20 parts per million (ppm) in fresh peppermint and spearmint hay. Significantly lower residues would occur in the spent hay, and residue levels would be undetectable (less than 0.5 ppm) in the mint oil. These residue levels have been judged adequate to protect the public health. The existing 0.1 ppm tolerance for acephate and its metabolite in meat, meat by products, milk, and fat is not likely to be exceeded by the feeding of spent hay to livestock.

EPA does not anticipate serious adverse effects to terrestrial vertebrates from the proposed program. Likewise, little hazard to aquatic organisms is expected. However, since acephate is highly toxic to bees, precautions have been imposed to prevent adverse effects to bees. In addition, certain precautions against contamination of aquatic areas were required.

After reviewing the applications and other available exemption information, EPA determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1981, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The EPA-registered product Orthene 75S (EPA Reg. No. 239-2418) may be used at a rate of one pound a.i. per acre per application;

2. A maximum of two applications will be made, with no applications permitted within 14 days of harvest;

3. A maximum of 6,000 pounds a.i. may be applied to 3,000 acres of mint in southwestern counties of Idaho;

4. Applications may be made with ground or air equipment;

5. Spray mixture volumes of 20-100 gallons per acre will be applied by ground equipment or 5-100 gallons per acre by aircraft;

6. All applications will be made by qualified growers using their own equipment or by State-licensed commercial applicators. Idaho State University Extension personnel will furnish information on procedures;

7. Precautions will be taken to avoid spray drift to non-target areas. The pesticide will not be applied when weather conditions favor drift;

8. Care will be exercised to keep the pesticide out of lakes, streams, or ponds, and to prevent contamination of water by the cleaning of equipment or disposal of wastes;

9. This product may not be applied to mint fields in bloom when bees are present in the area unless such applications are made during late afternoon, early evening, or early morning when bees are not actively foraging;

10. Combined residues of acephate and its metabolite methamidophos are not expected to exceed 20 ppm in fresh and spent peppermint and spearmint hay. Residues in mint oil are expected to be undetectable (less than 0.05 ppm). Fresh and spent peppermint and

spearmint hay and mint oil with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education and Welfare has been advised of this action;

11. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

12. The Applicant is responsible for ensuring that all of the provisions of the specific exemption are met and must submit a report summarizing the results of this program by January 15, 1981; and

13. The EPA shall be informed immediately of any adverse effects resulting from the use of acephate in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136)

Dated: June 6, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-17854 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1513-4; OPP-50480]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental use.

No. 400-EUP-58. Uniroyal Chemical, Bethany, CT 06525. This experimental use permit allows the use of 2,000 pounds of the fungicide carboxin on peanuts to evaluate control of *Sclerotium folfsii*. A total of 800 acres are involved. The program is authorized only in the States of Alabama, Georgia, Florida, and Virginia. The experimental use permit is effective from June 1, 1980 to June 1, 1981. (PM 21, Henry M. Jacoby, Room: E-305, Telephone 202-755-2562)

No. 3125-EUP 164. Mobay Chemical Corporation, Kansas City, MO 64120. This experimental use permit allows the use of 38.75 pounds of the active ingredient of the insecticide 2-chloro-N-[[[4-trifluromethoxy)-phenyl]-amino]carbonyl]benzamide on trees to evaluate control of gypsy moth. A total of 750 acres are involved. The program is authorized only in the State of Rhode Island. The experimental use permit is effective from April 21, 1980 to April 21, 1981. (PM-17, Franklin D. R. Gee, Room: E-341, Telephone: 426-9417)

Interested persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made conveniently available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended (7 U.S.C. 136))

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-17861 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1514-2; OPP-66068A]

Kwell Shampoo, Lotion, and Cream; Clarification of Notice of Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is to clarify a notice of intent to cancel registrations of pesticide products by Reed & Carnrick Pharmaceuticals, 30 Boright Ave., Kenilworth, NJ 07033 to reflect continued marketing for human use of Kwell products under the new drug procedures of the Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT: Mr. John Richards, Federal Register Section (TS-793), Office of Pesticides and Toxic Substances, Room EB-42, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426-2432.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 17, 1980 (45 FR 26119), a list was published of pesticide products in which the registrants requested voluntary cancellation in accordance with Section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which provided for voluntary cancellation after five years from the date of registration.

In the case of the products Kwell Shampoo (Gamma Benzene Hexachloride) (Reg. No. 9160-1), Kwell Lotion (Reg. No. 9160-2), and Kwell Cream (Reg. No. 9160-3) by Reed and Carnrick Pharmaceuticals, on the 10th through 12th lines, first column, page 26120, the Agency has agreed to the cancellation of registration as provided for in Section 25(b) of FIFRA. This will not affect the marketing of these products as these products are adequately regulated for human use by the Food and Drug Administration under the new drug procedures of 21 CFR Parts 310, 312, and 314.

Dated: June 5, 1980.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-17855 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1513-5; PP 9G2230/T246]

N-Cyclopropyl-1,3,5-triazine-2,4,6-triamine; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the insecticide, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine in or on the raw agricultural commodities: eggs, meat, fat, and meat byproducts of poultry at 0.2 part per million (ppm) and meat, fat, and meat byproducts of beef cattle, sheep, and hogs, at 0.1 ppm.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager, (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Room: E-341, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202/426-2637.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corporation, Greensboro, NC 27409, submitted a pesticide petition (PP 9G2230) to the EPA. The petition requested that temporary tolerances be established for the insecticide *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine in or on the raw agricultural commodities eggs, meat, fat, and meat byproducts of poultry at 0.2 part per million (ppm) and meat, fat, and meat byproducts of beef cattle, sheep, and hogs at 0.1 ppm.

These temporary tolerances are to permit the marketing of the above raw agricultural commodities treated in accordance with an experimental use permit concurrently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance would protect the public health. The temporary

tolerances have been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the active ingredient to be used will not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy will immediately notify the Environmental Protection Agency of any findings from the erperimental use that have a bearing on safety. The firm will 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 of the Food and Drug Administration.

These temporary tolerances expire May 16, 1982. Residues not in excess of these temporary tolerances remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: June 6, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-17860 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1514-7]

Small System Strategy for Public Water Supply Systems—Safe Drinking Water Act

AGENCY: Environmental Protection Agency.

ACTION: Interim final policy for public comment.

SUMMARY: The following policy statement defines the magnitude of the compliance problem by Small Water Supply Systems in the United States and the constraints faced by these systems in implementing improvements. The policy statement outlines an approach to the problem which emphasizes a regulatory approach directed toward immediate mitigation of acute health hazards and the implementation of the most feasible solution to the other types of violations as expeditiously as possible. It will be the Agency's policy to not enforce against compliance schedules which extend beyond the 1981/1983 exemption deadline of the Safe Drinking Water Act if a good faith effort has been demonstrated by the State and the utility.

DATE: Comments accepted on or before August 12, 1980.

CONTACT: For further information contact Alan Levin, Director, State Programs Divisions, WH-550, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, (202) 426-8290.

SUPPLEMENTAL INFORMATION: The following statement should be considered as interim final policy to be followed by the State regulatory agencies until amended by later publication in the **Federal Register.**

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

June 9, 1980.

Office of Drinking Water, Environmental Protection Agency

Small System Strategy for Public Water Supply Systems

The implementation of the Interim Primary Drinking Water Regulations (IPDWR) and the preliminary findings of an Environmental Protection Agency (EPA) financial study has documented a problem which was well-known to the State and Federal water supply programs—small systems account for the great majority of the non-compliance with the standards for the traditional contaminants of concern in drinking water. Further, the financial study indicated that many of these small systems which exceed the standards cannot comply because of serious financing and/or operating problems. This problem is further magnified with respect to time because the Safe Drinking Water Act (SDWA) requires that all public water supply systems receiving exemptions be in compliance with the National Drinking Water Standards by 1981, or 1983 if the system intends to regionalize.

The general purpose of this paper is to describe the small system problem and to present a strategy for bringing as many systems as possible into compliance with the standards as quickly as it is possible to do so. Specifically, this report will:

- Describe the nature of small system non-compliance characteristics with respect to the 1981/1983 exemption deadlines;
- Outline a systematic approach to provide maximum compliance without causing unreasonable hardship;
- Propose a method of setting priorities for non-compliance follow-up activities;
- Provide a policy which emphasizes progress toward ultimate compliance through a demonstration of good faith effort by non-compliance systems;
- Describe EPA initiatives to facilitate small system improvement in the future.

Implementing this strategy will require close cooperation between Federal, State and local governments, reflecting a common commitment to improving drinking water quality. All parties share the goal of protecting public health, yet all recognize that compliance by all systems is not easily accomplished due to technological, economic, and regulatory constraints. Thus to reach the objective there must be a rational plan for the application of resources, assistance, enforcement measures, and innovative solutions.

Regulator Framework

The SDWA contains two provisions which grant systems in violation more time to comply with primary drinking water standards: exemptions and variances. Under the law, all systems which exceed any of the original primary standards are in violation of the Act unless they receive a formal exemption or variance from the State or EPA. Exemptions provide the system with time to cope with technical or economic problems. By statute, such exemptions may not extend beyond January 1, 1981, for individual systems or January 1, 1983, for those joining a regional system. Variances, which have no mandated compliance deadline, provide for non-compliance under the rare circumstance where the raw water quality is so poor that compliance is not feasible even after the installation of the best available treatment. For both variances and exemptions the law requires that there be no unreasonable risk to health during the period of waiver and that compliance be achieved as quickly as feasible.

Size Distribution Among Regulated Systems

Based on current inventories, there are approximately 61,500 community water supply systems (CWSS) in the United States—systems which serve a resident population of 25 or more people or have 15 or more service connections. This does not include the non-community water systems such as restaurants, rest stops, and campgrounds which serve drinking water to a transient population.

Eighty-six percent of the 61,500 community water systems have a

service population of less than 2,500 people. These 53,300 systems serve only 9 percent of the U.S. population which is provided drinking water by community systems. Further, 63.5 percent (39,000 systems) of the water systems in the U.S. are in the very small category—systems with a service population of 500 people or less. Thus the regulated universe includes a very high percentage of small systems. The vast majority of Americans are served by a small number of large systems.

Compliance Problems

Current estimates, based upon data and sample analysis of 1,000 communities, indicate that 22 percent of the systems (13,600 systems) can be expected to exceed one or more of the quality standards stipulated in the initial IPDWR. The original IPDWR establish maximum levels for the traditional contaminants of concern—bacteria, turbidity, ten inorganic ions, six pesticides and radiation. (These estimates do not include system compliance with the recently promulgated standards for trihalomethanes (disinfection byproducts) or other man-made organic contaminants for which standards are now being developed.)

EPA's study also examined the capabilities of systems to finance improvements where necessary to achieve compliance. Of the projected 13,600 systems in violation of the water quality standards, it is estimated that 8,700 would require relatively expensive treatment improvements, and 3,300 of these systems (600 publicly owned, 2,700 privately owned) would be unable to make necessary improvements using conventional local financing. 545 of these systems could not comply even with the application of a 100 percent capital grant because they do not have the financial capability to support related operation and maintenance costs. The problem of attaining compliance is further complicated by the fact the privately owned systems are usually not eligible for capital grants from the Federal or State governments.

The size distribution of the 3,300 "unable to finance" systems indicates that the vast majority of the problems exist in the small systems. It is estimated that 3,200 (97 percent) of these systems have a service population of less than 2,500 people and 3,000 (91 percent) serve less than 500 people.

The previous discussion focused on the economic constraints faced by about 3,300 systems which are unable to finance the necessary improvements. Logically, the other 10,300 should be able to afford the capital expenditures. However, even these systems are confronted with constraints which may impede compliance with the regulations in a timely manner. Four such constraints are:

- Technical—Many operators of small systems lack the technical capability to interpret violations, assess alternative means and costs of attaining compliance, or finding available assistance.
- Local Reactions—In today's situation major public resistance to anything that might increase user rates can be expected. This is particularly true among small systems customers who may not appreciate the benefits to be derived from improved drinking water quality. This is a particular problem where the contaminant of concern is naturally occurring and has been present for some time. The adverse effects of many traditional contaminants are associated with long-term exposure and the impacts within small communities are hard to perceive or quantify.
- Time Phasing—Many small systems have only recently learned of their non-compliance. Even if a community made a god faith effort to comply, the statutory deadline may be exceeded. For instances, it might take up to 5 or 7 years for a utility to install major capital improvements, allowing reasonable time for engineering design, arranging financing, contracting, equipment fabrication, construction and operational start-up.
- Technology—Many of the available technologies for the removal or reduction of contaminants are not directly applicable to small systems.

Strategy

The Agency's proposed strategy is directed at obtaining compliance with the standards as quickly as it is feasible to do so, starting with the more immediate and serious risks to public health. The strategy emphasizes a compliance process based upon a reasonable schedule prescribed by the regulatory agency, usually the State, after negotiation with the utility. The strategy also provides discretion to the States in allocating available resources for following-up instances of non-compliance, based on relative public health impacts.

Under this strategy, the following steps should be applied in sequential order by the regulatory agency:

- Ensure that all systems are monitoring and reporting the drinking water quality at the prescribed frequency.
- Evaluate the analytical data to determine each system's compliance status and require public notification of the customers where appropriate.
- Conduct on-site evaluations (inspections) of systems in violation and require immediate action to reduce any serious public health risks.
- Prescribe a compliance schedule for the utility under an administrative order, compliance agreement, or a formal exemption as provided under SDWA.
- Assess alternate means of compliance. The first step and minimum requirement of the compliance schedule should be an engineering assessment of alternative means of compliance and the associated costs. This should be done by the utility where feasible or by the State where the system is so small as to lack the necessary expertise.
- Separate the system into two groups based upon the above information—those that can comply and those which will not be able to comply without assistance.
- Develop reasonable and expediant compliance schedules for those systems that can comply. Those capable but unwilling to comply become candidates for enforcement action.
- Provide technical assistance to systems that cannot comply because of financial constraints. These systems should be directed toward existing Federal and/or State subsidy programs.

The engineering and economic assessment is the most critical aspect of this approach. A comprehensive and realistic study will define the compliance alternatives, indicate their relative merits and determine the utility's capability for implementation. Among the alternatives to be considered are regionalization or some other inter-community arrangement, alternative water sources, blending or mixing of new and old sources, and, finally, treatment.

Upon completion of this assessment, the State must carefully and critically review the results to ensure that they are sound and realistic. The ability to finance capital improvements should be determined on the basis of the system's ability to raise the needed capital and the impact on customer's rates. As described below, EPA will provide seminars for State officials on determining financial capability.

The strategy places great emphasis on cooperation between the utility out-of-compliance and the State regulatory agency. Since this may not happen in all cases, the regulatory agency must adopt an enforcement program that places a

high priority on those systems which refuse to negotiate compliance schedules, to conduct a realistic engineering assessment of means of compliance or to move toward compliance where they are able to finance the needed changes. At the same time, the program should be flexible in dealing with systems which are faced with a true economic hardships. For these, the regulatory agency should provide assistnce in locating subsidies from existing State and Federal programs and consider an extended time period for compliance and/or assigning a low enforcement priority.

The completion of the engineering assessment, entry into some type of compliance agreement designed to obtain compliance as expeditiously as possible, and the implementation of the necessary improvements in accordance with the developed schedule are considered to be essential for the demonstration of good faith effort toward ultimate compliance. Likewise, the State must demonstrate a program which places a high enforcement priority on those systems which refuse to participate in the program or which fail to comply with negotiated agreements or schedules.

The Agency recognizes that there are true exceptions where the sensitive population group to a particular violation is not present in the service population. Examples include excessive fluoride levels in a nursing home system or nitrate violations in a mens penitentiary. In order to be responsive to these true exceptions, the Agency will modify the regulations to provide exceptions where non-applicability is appropriate.

Compliance Priority Plan

To make this strategy work it is necessary to develop criteria for the utilization of enforcement discretion. This section describes the basis for making enforcement judgements.

The obvious basis for setting enforcement priorities is the magnitude of the health risk to be reduced. This is a complex determination requiring consideration of at least six relevant factors. Using these factors as weighted criteria, the State can rank all violating systems according to specific operating priorities.

Among the factors to be considered are:

- The degree of hazard;
- The population exposed;
- The amount of deviation from the standard or deadline;
- The feasibility of correction;
- The deterrent effect that enforcement action may have on other violators; and
- The system's compliance history.

The enforcement priorities should be developed by combining these factors in a formula or matrix that facilitates making the necessary judgement in each case. (An example of such a matrix appears in *Regulatory Aspects of the Safe Drinking Water Act*, Workshop Report, published by the Office of Drinking Water in November, 1977.)

For example, an extremely severe violation of an inorganic MCL by a system serving hundreds of thousands of people and having a history of problems with that contaminant should be assigned a fairly high enforcement priority rating. A small system violating the same MCL by only a small amount for the first time would receive a lower enforcement priority rating. A bacteriological violation, because it may indicate an immediate health threat, would receive the highest priority attention, whether the system is large or small.

It must also be understood that the State response to the above violations may be selected from a wide range of possible compliance or enforcement activities and that several can be pursuant or applied simultaneously. Enforcement activities may include the following actions, listed in order of increasing severity:

- Informal discussion with the utility;
- Sanitary survey and technical assistance;
- Written notification of actions required;
- Agreement on compliance schedule as part of exemption;
- State public notification;
- Warning letters; and
- Legal actions.

In cooperation with State agencies, EPA has developed a preliminary list which shows a suggested ranking for violations. This represents a priority listing of one of the basic factors mentioned above, the degree of hazard. This suggested ranking is presented as a point of departure for discussion and should be adjusted to reflect the problems, priorities, and programs of the individual States. For example, State regulation violations shown at the bottom of the table can be inserted elsewhere in the priority listing. Many of these violations, such as a disinfection requirement, are outside the legislative authority of the Federal program and have serious public health implications; they could be moved up higher on the list.

Priority Lisiting of Violations

1. Emergency Actions

II. Serious Violations

A. Acute Risks

Bacteriological mcl/bacteriological public notice failure
Nitrate mcl/nitrate public notice failure
Turbidity mcl/turbidity public notice failure
Bacteriological monitoring/reporting
Nitrate monitoring/reporting
Turbidity monitoring/reporting
Radiological mcl [1]
Inorganic chemical mcl [1]
Organic chemical mcl [1]
Radiological public notice failure [1]
Inorganic chemical public notice failure [1]

B. Chronic Risks

Organic chemical public notice failure [1]
Radiological monitoring/reporting
Inorganic chemical monitoring/reporting
Organic chemical monitoring/reporting
Radiological mcl [2]
Inorganic chemical mcl [2,3]
Organic chemical mcl [2]
Radiological public notice failure [2]
Inorganic chemical public notice failure [2]
Organic chemical public notice failure [2]
Public notice for failure to monitor/report

III. Less Serious Violations

Failure to negotiate a compliance schedule
Failure to complete an engineering/economic evaluation as part of an exemption
Fluoride mcl [2]
Failure to meet deadline set as part of an exemption schedule [3]
Failure to meet deadline of fluoride exemption schedule
Failure to meet 1981/1983 exemption deadline where good faith effort exists
Incorrect analytical methods
Laboratory certification violations

IV. State Regulation Violations

Disinfection requirement
No certified operator
Facility/operation violations
Inadequate chlorinator redundancy
Others

EPA Enforcement

The Agency's policy is to defer to the primacy State's compliance process wherever the State is taking effective and timely action to bring about

[1] Mcl levels greater than the higher limits indicated in the exemption guidelines.
[2] Levels greater than mcl but less than exemption guidelines.
[3] Excludes fluorides.

compliance at the earliest feasible time. However, there are specific instances where EPA involvement may be necessary. The conditions which may precipitate EPA enforcement in a primacy State include:

- Assistance is requested by the State;
- EPA action complements State action;
- Where there is a serious deficiency in the State program; and
- Emergencies where there is insufficient State or local action.

There are several criteria which would be considered in any decision to initiate EPA action in a primacy State, including the priority of the violation according to the agreed upon priority criteria, the need for national consistency, and the effect on the total Federal program. EPA will consider bringing a civil action in a primacy State in certain situations where the State does not fulfill its mandated responsibilities.

However, EPA does not anticipate independent enforcement actions where primacy States have agreed upon enforcement criteria and where States and utilities are maintaining good faith efforts to attain compliance.

Implementing the Strategy

Beginning in FY 81, each primacy State will be required to include in the program plan which accompanies its grant application a set of enforcement criteria to guide the State's use of its enforcement resources. The enforcement priority listing of violation types will be negotiated between the State and EPA Regional Office as of the ten grant-eligible program elements. The State will then be responsible for consistently applying its enforcement resources to the identified priority violations. The Regions will be responsible for evaluating the validity and reasonableness of the listing and for assessing the States' implementation of this as well as the other program elements supported by the Federal grant.

Supporting Activities

The Agency has a variety of activities underway that are in the service of the States and small systems. For information purposes they are briefly described below:

EPA is working closely with the Farmers Home Administration and the Small Business Administration to assure that high priority for subsidies is given to small community water systems which need improvements to meet national primary drinking water standards. A Memorandum of Understanding along these lines was signed with FmHA in December, 1978.

Research and Development—The President's budget proposes $4.7 million increase in FY 81 specifically for the development of cost-effective technologies for small systems. This is in addition to ongoing work of this nature.

Operation and Maintenance—The Agency is providing assistance in this important aspect of small system development through:

- Continued support to the National Rural Water Association for its program of training and technical assistance for operators of small rural water systems in 26 States.
- Under an Interagency Agreement with the Department of Labor CETA program, EPA has awarded grants to the National Demonstration Water Project and the National Rural Water Association for training water and wastewater plant operators in 14 States.
- An operator training course is being developed under EPA grant by the AWWA which meets the training requirements of entry level and intermediate operators of water treatment and distribution facilities. This course will be useful to small system operators who often do not possess the basic knowledge needed to operate a treatment plant effectively.
- A film has been produced by the Agency and made available to instruct small water systems operators on correct sampling techniques.
- Contract proposals are being solicited for the development of separate treatment technique manuals for small systems for fluoride, bacteria, nitrate, radiological contaminants, and turbidity problems.

State Level Training—The Agency continues to support training directed at State officials involved in working with small systems. For example:

- EPA has funded seminars for State Directors under the auspices of the Conference of State Sanitary Engineers (CSSE) on enforcement techniques and strategies applicable to small systems. An additional seminar series will be offered on techniques in determining a system's financial status.
- A small system sanitary survey course is being developed by modifying an existing training course to make it more applicable to small systems.
- Existing State operation and maintenance programs will be analyzed to determine the effectiveness of various approaches to assisting small systems to achieve compliance. This is being funded through the Conference of State Sanitary Engineers.
- A model program for training the trainers of operators has been developed and distributed to the Regions and the States.

Alternate Management Techniques—These activities are directed at identifying viable alternatives for small systems.

- A study will be conducted of the effects of regionalization on small water systems, methods of increasing the probability of acceptance by local communities and the identification of alternate forms and structures for intersystem agreements.
- A study will be undertaken to assess the feasibility and cost of using home treatment units as a supplement to treatment provided by small systems.
- A market analysis will be performed by an Agency contractor to determine the availability and cost of appropriate treatment technology for small systems and evaluate means of stimulating the industry and produce such equipment. The analysis will also identify problems with the package equipment approach.

Summary

The objective of this strategy is to integrate the State, Federal and local approach to the small system problem. The key to the entire strategy is contained in the compliance/enforcement process which is directed toward:

- Immediate compliance and/or reduction of acute health hazards;
- State adoption and application of a consistent compliance priority process;
- Realistic evaluation of the violiting system's alternative means of compliance with the regulations for chronic hazards;
- Utility compliance as expeditiously as practicable for the chronic hazards; and
- Appropriate enforcement actions where necessary.

It is the Agency's position that the inherent problems of small systems have made the 1981/1983 deadline infeasible for many of them. Thus it will be EPA's policy to not enforce against compliance schedules which extend beyond the deadline if a good faith effort has been and continues to be made by the State and system. Further, the Agency believes that the goal of the SDWA can best be achieved by a practical approach which stresses maximum feasible compliance. Our shared goal is

the best quality drinking water for all Americans.

[FR Doc. 80-17851 Filed 6-12-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

White Sands Broadcasting, Inc. and Gulfcoast Broadcasting, Inc.; Hearing Designation Order

Adopted: May 30, 1980.

Released: June 10, 1980.

In the matter of applications of White Sands Broadcasting, Inc., Destin, Florida, Req.: 92.1 MHz, Channel 221 3kW (H&V); 195 feet (BC Docket No. 80-273, File No. BPH-780906AK) and Gulfcoast Broadcasting, Inc., Destin, Florida, Req.: 92.1 MHz, channel 221 3 kW (H&V); 143 feet (BC Docket No. 80-274, File No. BPH-790525AG) for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of White Sands Broadcasting, Inc. (Sands), and Gulfcoast Broadcasting, Inc. (Gulfcoast).

2. *Sands.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. As origninally filed, the Sands application specified Fort Walton Beach, Florida as its community of license. The Notice published by Sands specified Fort Walton Beach. Subsequently, Sands amended its application to specify Destin, but did not republish notice of the major amendment. To remedy this deficiency, the applicant will be required to republish local notice, if it has not already done so, and file a statement of publication with the presiding Administrative Law Judge.

3. Analysis of the financial data submitted by Sands indicates that the applicant requires $54,663.23 (not including the costs of repaying the bank loan, a figure that the applicant has failed to provide) to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	[1]$12,708.50
Equipment loan payments (3 mos.)	2,954.73
Auxiliary power generators	10,875.00
Miscellaneous	5,000.00
Operating costs (3 mos.)	23,125.00
Total	54,663.23

[1] This assumes an interest rate of 8% add-on. However, as noted below, the equipment supplier did not supply the terms of repayment.

Sands plans to fund construction and operation with the following funds: existing capital, $10,555, a loan from Merchants National Bank in the amount of $15,000, stock subscriptions from a principal of the corporation, Raymond Feiler, in the amount of $10,000, and deferred credit from an equipment supplier. The bank letter fails to comply with Paragraph 4(e) of Section III in that it does not specify the interest rate, terms of repayment, or collateral required. The equipment credit letter does not specify the interest rate. Thus, deferred credit cannot be found to be available to Sands. Therefore, Sands has shown only $20,555 available to meet a commitment of $54,663.23. A limited financial issue will be specified.

5. *Gulfcoast.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Gulfcoast published the required notice. To remedy this deficiency, the applicant will be required to publish local notice of its application if it has not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

6. *Other Matters.* Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrye to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Sands: the availability of funds in addition to the $20,555 indicated, and in light thereof, whether Sands is financially qualified to construct and operate the proposed station.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That both Sands and Gulfcoast give local notice of the filing of their applications as required by Section 73.3580(f) of the Rules and file a statement of publication pursuant to Section 73.3580(h) with the presiding Administrative Law Judge.

10. It is further ordered, That the petitions for leave to amend filed by Sands and Gulfcoast are granted, and the corresponding amendments are accepted.

11. It is further orderd, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further order, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner precribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-17890 Filed 6-12-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-625-DR]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA-625-DR), dated June 4, 1980, and related determinations.

DATED: June 4, 1980.

FOR FURTHER INFORMATION CONTACT:
Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634–7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, on June 4, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from severe storms and tornadoes beginning on or about June 3, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Nebraska.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Francis X. Tobin of the Federal Emergency Management Agency to act as to the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Nebraska to have been affected adversely by this declared major disaster.

Hall County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

William W. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80–17863 Filed 6–12–80; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL LABOR RELATIONS AUTHORITY

Decision on Request for General Statement of Policy and Guidance

AGENCY: Federal Labor Relations Authority.

ACTION: Decision on request for general statement of policy and guidance.

SUMMARY: This decision concerns a request from the American Federation of Government Employees that the Federal Labor Relations Authority issue a general statement of policy or guidance as to the obligation to negotiate during the term of a collective bargaining agreement.

EFFECTIVE DATE: May 30, 1980.

FOR FURTHER INFORMATION CONTACT:
Samuel A. Chaitovitz, Executive Director, 1900 E Street NW., Washington, D.C. 20424, 202–254–9595.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

As previously announced (44 FR 63, 580, November 5, 1979), the Authority received a request from the American Federation of Government Employees that the Authority issue a general statement of policy or guidance as to the obligation to negotiate during the term of a collective bargaining agreement. Interested persons were invited to express their views in writing with respect to the question of whether the Authority should issue a policy statement on this matter. After careful consideration of the submissions by diverse labor organizations and agencies, the Authority denied the request for the reasons set forth in its decision below:

[Case No. O–PS–11]

Decision on Request for General Statement of Policy and Guidance

As previously announced,[1] the Authority received a request from the American Federation of Government Employees (AFGE) that the Authority issue a general statement of policy or guidance as to the obligation to negotiate during the term of collective bargaining agreement.

[1] Federal Labor Relations Authority, *Notice Relating to the Issuance of a Policy Statement*, 44 F.R. 63580 (Nov. 5, 1979).

The specific matter at issue, substantially as stated by AFGE, is the following:

Does the employer, in a bargaining relationship, have an obligation to bargain at the demand of the exclusive representative on a mandatory subject for bargaining during the term of an agreement, whether the matter upon which bargaining is demanded is covered by the terms of a collective bargaining agreement or not? Styled from the exclusive representative's perspective, does the union have the right to demand bargaining on a matter covered by the terms of an agreement or not covered in an agreement, and have the employer bargain in good faith?

Before deciding whether issuance of a policy statement was warranted, the Authority invited interested persons to express their views in writing with respect to the question of whether the Authority should issue a policy statement on this matter.

The Authority has carefully considered this request, including the views submitted in response to the Notice issued by the Authority, and determined that the request does not satisfy the standards governing the issuance of general statements of policy and guidance set forth in § 2427.5 of the Authority's Rules and Regulations (45 F.R. 3516 (1980)), which provide in pertinent part:

§ 2427.5 *Standards governing issuance of general statements of policy and guidance.*

In deciding whether to issue a general statement of policy or guidance, the Authority shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether an Authority statement would prevent the proliferation of cases involving the same or similar question[.]

The matter raised in this request for a general statement of policy or guidance can be more appropriately resolved by other means. For example, the procedures set forth in the Statute and appropriate regulations for the resolution of unfair labor practices provide a mechanism for the resolution of the various factual issues involved in a charge that a party has refused to negotiate in good faith as required by the Statute. Those procedures also provide a mechanism for the resolution of issues of law, that may be ancillary to such factual issues, as to whether a matter proposed for negotiations is within the duty to negotiate.

Also, Authority action on this request is not warranted since it would not prevent the proliferation of cases involving the same or similar questions.

In the Authority's view, a meaningful statement on the matter raised in the request would require conjecture by the Authority on a wide variety of potential circumstances. Such a statement would carry the potential of unsettling rather than facilitating the understanding of other parties as to how the statement would apply in their particular situation.

Accordingly, the request for a general statement of policy or guidance is denied.

Issued, Washington, D.C., May 30, 1980.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

Leon B. Applewhaite,

Member.

Federal Labor Relations Authority.

[FR Doc. 80-17849 Filed 6-12-80; 8:45 am]

BILLING CODE 6325-19-M

FEDERAL MARITIME COMMISSION

Agreement filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, 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 the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 23, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

AGREEMENT NO.: T-3906.

FILING PARTY: J. T. Hand, Jr., Attorney, Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016.

SUMMARY: Agreement No. T-3906, between Bethlehem Steel Corporation (Bethlehem) and Shippers Stevedoring Company (Shippers), provides for the lease to Shippers of 48 acres of land and certain buildings at Bethlehem's Jacintoport property located in Harris County, Texas, for use in Shippers' stevedoring and general warehousing operations. As compensation, Shippers will pay a monthly rental ranging from $10,417 to $14,776, according to a payment schedule set forth in the agreement. Shippers further agrees to making certain improvements to the facility, and guarantees a minimum wharfage income to Bethlehem of $200,000 for each of the first two years of the lease and $340,000 for each of the remaining five years of the lease.

By Order of the Federal Maritime Commission.

Dated: June 10, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-17870 Filed 6-12-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banco Central, S.A.; Acquisition of Bank

Banco Central, S.A., Madrid, Spain, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 54.96 percent or more of the voting shares of United Americas Bank, New York, New York. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than July 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17902 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 3, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (financing activities; Florida): to engage through its subsidiary Citicorp Person-to-Person Financial Center of Florida, Inc. in making or acquiring loans and other extensions of credit secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory; purchasing and servicing for its own account sales finance contracts; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. Credit related life, accident and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate. These

activities will be conducted from an office in Pensacola, Florida, serving Escambra and South Rosa counties and contiguous portions of Okaloosa and Waltin counties.

2. CITICORP, New York, New York (consumer finance activities; Florida): to continue to engage, through its subsidiary Citicorp Person-to-Person Financial Center, Inc., in making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. Credit related life, accident and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate. These activities will be conducted from a new office in Pensacola, Florida, serving Escambia and South Rosa counties and contiguous portions of Okaloosa and Waltin counties.

B. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

TENNESSEE COMMERCE CORPORATION, Jackson, Tennessee (date processing activities; Tennessee): to engage through its subsidiary, Tennessee Commerce Services, Inc., Jackson, Tennessee, in providing banking-related data processing services to Tennessee Commerce Corporation and its subsidiaries; providing banking-related data processing to other banking institutions; and performing payroll services for customers of its subsidiary banks. All of the proposed data processing services would be performed in batch node. These activities would be performed from an office in Jackson, Tennessee, serving all counties in Tennessee located west of the Tennessee River, with the exception of Shelby County.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17898 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than July 3, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (commercial finance activities; New York and New Jersey): to engage, through its subsidiary Pittsburgh National Financial Corporation (formerly an active corporation named Pittsburgh National Mortgage Corporation), in making, acquiring, and servicing loans and other extensions of credit, such as would be made by a commercial finance company. These activities would be conducted from an office in New York, New York, serving New York and New Jersey. Comments on this application must be received by June 30, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bancorp Hawaii, Inc., Honolulu, Hawaii (industrial loan and credit related insurance activities; Hawaii): to engage through its subsidiary Bancorp Finance of Hawaii, Inc., in operating an industrial loan company as authorized by Hawaii law, and acting as agent or broker in the sale of credit related life, accident, and health insurance. These activities would be conducted from an office in Maui Mall, Kahului, Maui, Serving the Island of Maui.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17903 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Extra Co.; Formation of Bank Holding Company

Extra Co., Temple, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.5 percent or more of the voting shares of First National Bank of Temple, Temple, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12U.S.C. 1842(c)).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 3, 1980.

Board of Governors of the Federal Reserve System, June 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17899 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

First Commercial Bancorp; Formation of Bank Holding Company

First Commercial Bancorp, Sacramento, California, has applied for

the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 100 percent of the voting shares of First Commercial Bank, Sacramento, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First Commercial Bancorp, Sacramento, California, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Commercial Leasing Company and Northern California Trading Company both located in Sacramento, California.

Applicant states that the proposed subsidiaries would engage in the activities of investing in property for the purpose of leasing the same, and investing and holding, as lessor, leases of all types of property (First Commercial Leasing Company); and the business of acting as trustee for deeds of trust held by the bank to secure obligations arising out of extensions of credit and verifying account debtors under accounts receivable inventory financing program (Northern California Trading Company). These activities would be performed from offices located in First Commercial Bank, and the geographic areas to be served are Sacramento County and the Central Valley. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 9, 1980.

Board of Governors of the Federal Reserve System, June 9, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17894 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

The First National Corp.; Formation of Bank Holding Company

The First National Corporation, Ontonagon, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank in Ontonagon, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 9, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 9, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17895 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

First South Bankorp; Formation of Bank Holding Company

First South Bankorp, Columbus, Georgia, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of successor by merger to The First National Bank of Columbus, Columbus, Georgia. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 9, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 9, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17893 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Great Lakes Financial Corp.; Acquisition of Bank

Great Lakes Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Montcalm Central Bank, Stanton, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than July 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17900 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Key Banks, Inc.; Acquisition of Bank

Key Banks, Inc., Albany, New York, has applied for the Board's approval under section (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares of the voting shares of the successor by merger to The National

Bank of Northern New York, Watertown, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17901 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Maryland National Corp.

Maryland National Corporation, Baltimore, Maryland, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the insurance underwriting activities of its subsidiary Mid-Atlantic Life Insurance Company, Inc., Phoenix, Arizona and Baltimore, Maryland.

Applicant states that the proposed subsidiary would engage in underwriting as a reinsurer of credit life and credit accident and health in insurance directly related to extensions of credit by subsidiaries of the Applicant in Ohio and Pennsylvania. These activities would be performed from offices of Applicant's subsidiary in Baltimore, Maryland and Phoenix, Arizona, and the geographic areas to be served as Ohio and Pennsylvania. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 9, 1980.

Board of Governors of the Federal Reserve System, June 9, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17892 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Progressive Bancshares Corp.; Formation of Bank Holding Company

Progressive Bancshares Corporation, Houma, Louisiana, has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of Progressive Bank and Trust Company, Houma, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 5, 1980.

Cathy L. Petryshyn

Assistant Secretary of the Board.

[FR Doc. 80-17896 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Provident Bancorp, Inc.; Formation of Bank Holding Company

Provident Bancorp, Inc., Cincinnati, Ohio, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.9 percent or more of the voting shares of The Provident Bank, Cincinnati, Ohio. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17897 Filed 6-12-80; 8:45 am]

BILLING CODE 6210-01-M

Columbia National Bankshares, Inc.; Formation of Bank Holding Company

Columbia National Bankshares, Inc., Longview, Washington, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 51.4 percent or more of the voting shares of Columbia National Bank, Longview, Washington. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 10, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18063 Filed 6-12-80; 8:45 a.m.]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Final Consumer Program in Voluntary Compliance With Executive Order 12160

Correction

In the issue of Monday, June 9, 1980, in FR Doc. 80-16997, appearing at page 39082, please make the following correction:

On page 39082, in the second column, paragraph six, line ten, the phrase ". . . a modification to it or insure. . ." should be changed to read ". . . a modification to it or issue. . ."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Grants for Childhood Lead-Based Paint Poisoning Prevention Programs; Availability of Funds Based on the President's Fiscal Year 1981 Budget

The Center for Disease Control announces the availability of funds based on the President's budget for fiscal year 1981 for Project Grants for Childhood Lead-Based Paint Poisoning Control, Catalog of Federal Domestic Assistance Number 13.266. This grant program, authorized by Section 316 (42 U.S.C. 247a), of the Public Health Service Act as amended, was announced in the **Federal Register** (45 FR 12490) dated February 26, 1980.

The objectives of this grant program are to assist in developing and carrying out local programs to detect, treat, and prevent incidents of lead-based paint poisoning among children under 6 years of age, eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, and assist in establishing centralized laboratory facilities for determining erythrocyte protoporphyrin or lead content in biological or environmental specimens obtained in connection with local programs.

Eligible applicants for community programs include agencies of units of general local governments, private nonprofit entities, and agencies of State governments where the State governments provide direct services to individuals in local communities, or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose. For laboratory development, State agencies only are eligible for support.

Based upon the President's fiscal year 1981 budget, it is expected that $10.250 million will be available to award no more than one or two new grants and 53 continuation grants with the average award expected to be $170,000 ranging from $71,000 to $515,000. Initial grants are funded for 12 months in a 2 to 5 year project period. Continuation grants within the project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above may vary and are subject to change due to the uncertainties in the appropriation process.

Information on application and review procedures, deadlines, and other information may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: June 3, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building No. 1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353-1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767-3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291

Regional Health Administrator, PHS, HHS Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837-4461

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556-5810

Regional Health Administrator, PHS, HHS Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442-0430

[FR Doc. 80-17836 Filed 6-12-80; 8:45 am]

BILLING CODE 4410-86-M

Project Grants for Preventive Health Services—Fluoridation; Availability of Funds Based on the President's Fiscal Year 1981 Budget

The Center for Disease Control announces the availability of funds based on the President's budget for fiscal year 1981 for Project Grants for Preventive Health Services—Fluoridation, Catalog of Federal Domestic Assistance Number 13.1980. This grant program, authorized by Section 317(a)(2), (42 U.S.C. 247b), of the Public Health Service Act as amended, was announced in the **Federal Register** (45 FR 12492) dated February 26, 1980.

The objective of this grant program is to assist States and communities in promoting, implementing, and maintaining fluoridated water systems on a national basis. Any State agency and, in consultation with State health authorities, political subdivisions of a State, and other public entities are eligible to apply for a grant.

Based upon the President's fiscal year 1981 budget, it is expected that $5 million will be available to award approximately 12 new and 45 continuation grants with the average award expected to be $100,000 ranging from $2,000 to $300,000. Initial grants are funded for 12 months in a 2 to 5 year project period. Continuation grants within the project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above may vary and are subject to change due to the uncertainties in the appropriation process.

Information on application and review procedures, deadlines, and other information may be obtained from the Procurement and Grants Office, Center for Disease Control, Atlanta, Georgia 30333, or the appropriate Department of Health and Human Services Regional Office set forth below.

Dated: June 3, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637
Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316
Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385
Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879
Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374,3291
Regional Health Administrator, PHS, HHS Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810
Regional Health Administrator, PHS, HHS Region X, 1321 Second Avenue, M.D./837, Arcade Plaze Building, Seattle, Washington 98101, (206) 442–0430

[FR Doc. 17837 Filed 6–12–80; 8:45 am]

BILLING CODE 4110–86–M

Project Grants for Preventive Health Services—Urban Rat Control; Availability of Funds Based on the President's Fiscal Year 1981 Budget

The Center for Disease Control announces the availability of funds based on the President's budget for fiscal year 1981 for Project Grants for Preventive Health Services—Urban Rat Control, Catalog of Federal Domestic Assistance Number 13.267. This grant program, authorized by Section 317(a)(2), (42 U.S.C. 247b), of the Public Health Service Act as amended, was announced in the **Federal Register** (45 FR 12493) dated February 26, 1980.

The objective of this grant program is to support comprehensive urban rat control activities in communities by improving the living environment to obviate rat proliferation and to promote the identification of local resources during the project period to sustain the program's achievement. Any State agency and, in consultation with State health authorities, political subdivisions of a State, and other public entities are eligible to apply for a grant.

Based upon the President's fiscal year 1981 budget, it is expected that $13 million will be available to award no more than one or two new grants and approximately 36 continuation grants with the average award expected to be $351,000 ranging from $100,000 to $1,990,000. Initial grants are funded for 12 months in a 2 to 5 year project period. Continuation grants within the project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above may vary and are subject to change due to the uncertainties in the appropriation process.

Information on application and review procedures, deadlines, and other information may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: June 3, 1980.

William H. Foege,

Director, Center for Disease Control

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827
Regional health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561
Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637
Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316
Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385
Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879
Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291
Regional Health Administrator, PHS, HHS Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810
Regional Health Administrator, PHS, HHS Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430

[FR Doc. 80–17835 Filed 6–12–80; 8:45 am]

BILLING CODE 4110–86–M

Project Grants for Venereal Disease Research, Demonstrations, and Public Information and Education; Availability of Funds Based on the President's Fiscal Year 1981 Budget

The Center for Disease Control announces the availability of funds based on the President's budget for fiscal year 1981 for Project Grants for Venereal Disease Research, Demonstrations, and Public Information and Education, Catalog of Federal Domestic Assistance Number 13.978. This grant program, authorized by Section 318(b), (42 U.S.C. 247c), of the Public Health Service Act as amended, was announced in the **Federal Register** (45 FR 12494) dated February 26, 1980.

The objectives of this grant program are to develop, improve, apply, and evaluate methods for the prevention and control of syphilis, gonorrhea, and other sexually transmitted diseases (STD) through demonstrations and applied research; to develop, improve, apply, and evaluate methods and strategies for public information and education about syphilis, gonorrhea, and other STD's; and to support particularly deserving public information and education programs at the community level which cannot be supported through other grant programs. Any State agency, political subdivisions of States, and other public or nonprofit private entities are eligible to apply for a grant.

Based upon the President's fiscal year 1981 budget, it is expected that $1.435 million will be available to award three to six new and approximately 15 continuation grants. The average award for new grants is expected to be $35,000 ranging from $10,000 to $75,000. Initial grants are usually funded for 12 months in a 1 to 5 year project period. Continuation grants within the project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above may vary and are subject to change due to the uncertainties in the appropriation process.

Information on application and review procedures, deadlines, and other information may be obtained from the Procurement and Grants Office, Center for Disease Control, Atlanta, Georgia 30333, or the appropriate Department of Health and Human Services Regional Office set forth below.

Dated: June 3, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827
Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561
Regional Health Administrator, PHS, HHS Region III, Gateway Building No. 1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316
Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385
Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879
Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291
Regional Health Administrator, PHS, HHS Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810
Regional Health Administrator, PHS, HHS Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430

[FR Doc. 80-17834 Filed 6-12-80; 8:45 am]
BILLING CODE 4110-86-M

Food and Drug Administration

[Docket No. 79M-0437]

Bioquest; Premarket Approval of Gonococcal Pili Antibody Test (Gonopat)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Gonococcal Pili Antibody Test (Gonopat), sponsored by Bioquest, Cockeysville, MD. After reviewing the recommendation of the Microbiology Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling. FDA has received a petition to withdraw its approval of the Gonopat. FDA is evaluating the petition and will respond to it in a future issue of the Federal Register.

DATE: Petitions for administrative review by July 14, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Bioquest, Cockeysville, MD, submitted an application for premarket approval of the Gonococcal Pili Antibody Test to FDA on June 24, 1977. The application was reviewed by the Microbiology Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended disapproval of the application. The agency has reviewed the Panel's recommendation and notes that a recommendation for disapproval of the application was based primarily on deficient product labeling. Other concerns of the Panel regarding high false-positive rates to be expected from the test are discussed in the Summary of Safety and Effectiveness Data prepared by the Bureau of Medical Devices.

FDA has not concurred in the Panel's recommendation to disapprove the premarket approval application. Consequently, on July 18, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices. FDA has taken the following actions in approving the Gonococcal Pili Antibody Test:

1. FDA agrees with the Panel's recommendations regarding product labeling and has required the sponsor to make the necessary revisions in the product labeling consistent with the Panel's recommendations.

2. Because accuracy of the Gonopat test depends largely on its use under certain conditions, FDA is requiring special labeling. Limitations for use are to be prominently displayed in "box labeling" on the package label, package insert, and promotional materials.

The summary of Safety and Effectiveness Data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request from that office. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the Act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

FDA has received a petition to withdraw its approval of the Gonococcal Pili Antibody Test (Gonopat). FDA is evaluating the petition and will respond to it in a future issue of the Federal Register.

Petitioners may, at any time on or before July 14, 1980, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 9, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-17867 Filed 6-10-80; 2:43 pm]
BILLING CODE 4110-03-M

[Docket No. 79M-0440]

Fisher Scientific; Premarket Approval of Fluorescent Gonorrhea Test-Heated (FGT-H)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY. The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Fluorescent Gonorrhea Test-Heated (FGT–H) sponored by Fisher Scientific Co., Orangeburg, NY. After reviewing the recommendation of the Microbiology Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for

use as recommended in the submitted labeling. FDA has received a petition to withdraw its approval of the FGT–H. FDA is evaluating the petition and will respond to it in a future issue of the Federal Register.

DATES:

FDA has not concurred in the Panel's recommendation to disapprove the premarket approval application. Consequently, on July 18, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices. FDA has taken the following actions in approving the Fluorescent Gonorrhea Test-heated (FGT–H):

1. FDA agrees with the Panel's recommendations regarding product labeling and has required the sponsor to make the necessary revisions in the product labeling consistent with the Panel's recommendations.

2. Because accuracy of the FGT–H test depends in great measure on its use under certain conditions, the agency is requiring special labeling. Limitations for use are to be prominently displayed in "box labeling" on the package label, package insert, and promotional materials.

3. As a result of Panel concern over FGT–H reproducibility, approval is conditioned on the sponsors supplying additional reproducibility data within 180 days of approval.

The Summary of Safety and Effectiveness Data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request to that office. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition, and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

FDA has received a petition to withdraw its approval of the Fluorescent Gonorrhea Test-Heated (FGT–H). FDA is evaluating the petition and will respond to it in a future issue of the Federal Register.

Petitioners may, at any time on or before July 14, 1980, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: June 9, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80–17866 Filed 6–10–80; 2:43 pm]

BILLING CODE 4110–03–M

[Docket No. 79G–0127]

Med-Chem Laboratories, Inc.; Withdrawal of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP 9G0228) proposing affirmation that Glyceryl monolaurate used as an antimicrobial agent in food is generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* (21 CFR 171.7) of the procedural food additive regulations, Med-Chem Laboratories, Inc., 2088 Riverwood Dr., Okemos, MI 48864, has withdrawn its petition (GRASP 9G0228), notice of which was published in the Federal Register of May 25, 1979, (44 FR 30438) proposing that glyceryl monolaurate used as an antimicrobial agent in food is GRAS.

Dated: June 5, 1980.

Taylor M. Quinn,

Acting Deputy Director, Bureau of Foods.

[FR Doc. 80–17833 Filed 6–12–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79M–0439]

Organon Diagnostics; Premarket Approval of Gonosticon Dri-Dot Test (GDD)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Gonosticon Dri-Dot Test (GDD) sponsored by Organon Diagnostics, El Monte, CA. After reviewing the recommendation of the Microbiology Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling. FDA has received a petition to withdraw its approval of the GDD. FDA is evaluating the petition and will respond to it in a future issue of the Federal Register.

DATES: Petitions for administrative review by July 14, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Organon Diagnostics, El Monte CA, submitted an application for premarket approval of the Gonosticon Dri-Dot Test (GDD) to FDA on December 29, 1976. The application was reviewed by the Microbiology Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended disapproval of the application. The agency has reviewed the Panel's recommendation and notes that the

Panel's recommendation for disapproval of the application was based primarily on deficient product labeling. Other concerns of the Panel regarding high false-positive rates found in clinical studies of the GDD and questionable cost-effectiveness of the test are discussed in the Summary of Safety and Effectiveness Data prepared by the Bureau of Medical Devices.

FDA has not concurred in the Panel's recommendation to disapprove the premarket approval application. Consequently, on July 18, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices. FDA has taken the following actions in approving the Gonosticon Dri-Dot Test (GDD):

1. FDA agrees with the Panel's recommendations regarding product labeling and has required the sponsor to make the necessary revisions in the product labeling consistent with the Panel's recommendations.

2. Because accuracy of the GDD test depends in great measure on its use under certain conditions, FDA is requiring special labeling. Limitations for use are to be prominently displayed in "box labeling" on the package label, package insert, and promotional materials.

The Summary of Safety and Effectiveness Data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request to that office. Request should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to used, the persons who may participate in the review, the time and place where the review will occur, and other details.

FDA has received a petition to withdraw its approval of the Gonosticon Dri-Dot Test (GDD). FDA is evaluating the petition and will respond to it in a future issue of the **Federal Register.**

Petitioners may, at any time on or before July 14, 1980, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: June 9, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80–17868 Filed 6–10–80; 2:43 pm]

BILLING CODE 4110–03–M

[Docket No. 76N–0462]

Proban Brand of Cythioate Oral Liquid; Hearing on Refusal To Approve New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is granting a hearing on the proposal to refuse to approve a supplemental new animal drug application (NADA) for Proban (cythioate) held by American Cyanamid Co. (Cyanamid), P.O. Box 400, Princeton, NJ 08540. FDA is also announcing a prehearing conference at which the date for the hearing will be set. Proban is a new animal drug containing cythioate recommended for oral use to control fleas on dogs.

DATE: Prehearing conference on July 15, 1980. Written notices of participation must be filed with the Hearing Clerk no later than July 14, 1980.

ADDRESS: Prehearing conference in the FDA Hearing Room, 4A–35, 5600 Fishers Lane, Rockville, MD 20857. Written notices of participation and disclosures of data and information to FDA Hearing Clerk (HFA–305), Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Hearing Clerk should be identified with docket number and clearly labeled "Proban Hearing.")

FOR FURTHER INFORMATION CONTACT: Richard T. Hunt, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 19, 1976 (41 FR 51078), the Director of the Bureau of Veterinary Medicine issued a notice of opportunity for hearing on a proposal to refuse to approve a supplement to NADA 33–606 for Proban. The application as currently approved provides for use of the drug as an oral liquid for the control of fleas on dogs. It is dispensed for use by or on the order of a licensed veterinarian. The supplemental application requested approval for over-the-counter (OTC) sale of Proban.

The notice was based upon the Director's conclusion that the applicant had failed to satisfy the safety criteria for approval of this product as an OTC drug. In the **Federal Register** of September 16, 1977 (42 FR 46595), the Commissioner of Food and Drugs denied Cyanamid's request for a hearing and issued an order refusing to approve the supplement to the NADA. Subsequently, the firm appealed the decision of the Commissioner to the United States Court of Appeals for the District of Columbia Circuit. On August 21, 1979, the court reversed the Commissioner's Order and remanded the case to FDA for further proceedings consistent with the opinion filed by the Court on that date, *American Cyanamid Co.* v. *FDA*, 606 F. 2d 1307 (D.C. Cir. 1979). In effect, the Court ordered FDA to hold an administrative hearing on the question whether approval of the supplement to NADA 33–606 should be refused. FDA will hold such a hearing. The presiding officer at the hearing will be Administrative Law Judge Daniel J. Davidson. A prehearing conference is scheduled for July 15, 1980 in the FDA Hearing Room at the address given above. Parties to the hearing will be the Bureau of Veterinary Medicine and Cyanamid.

As noted, the grounds for refusal to approve the supplement to NADA 33–606 stated in the November 19, 1976 notice of opportunity for hearing were the failure of the applicant to satisfy the safety criteria of the new animal drug provisions of section 512(d) of the act (21 U.S.C. 360b(d)). A reevaluation of the effectiveness data included in NADA's 33–606 (oral liquid) and 33–342 (tablet formulation) for Proban was not conducted before the September 16, 1977 notice because of the Bureau's belief that the safety data submitted by Cyanamid in its OTC application were

clearly deficient and that approval of the supplement to the application should be refused on this basis alone.

A review of both the safety and effectiveness data submitted by Cyanamid, including that contained in NADA 33-342, has now taken place pursuant to the policy announced in the Federal Register of December 23, 1977 (42 FR 64367), for reviewing such data in a parent application when a supplement to an approved application is submitted. Such review may occur when a supplement to an approved application seeks to change the marketing status of a drug so as to increase its distribution. A change from prescription dispensing to over-the-counter sale would have the potential for substantial increase in the distribution of Proban with a corresponding potential for increased direct human exposure to the drug. For this reason, a review of the effectiveness as well as the safety data relied upon by Cyanamid has been completed. Cyanamid relied upon studies referred to below as the "captive flea test" and as the "Series I" and "Series II" field studies to establish the effectiveness of Proban. This extensive reevaluation has led the Bureau to conclude that, evaluated pursuant to current principles (see 21 CFR 514.111(a)(5)), there are not adequate and well-controlled investigations that demonstrate that Proban is effective for its intended use. If this determination is also reached at the conclusion of this proceeding, and because the standards for demonstrating effectiveness for prescription and OTC use are identical, the Bureau will then consider action to withdraw approval for NADA 33-342 and NADA 33-606. Since Cyanamid will have had a complete opportunity to contest the Bureau's position regarding the adequacy of these effectiveness studies, the determination reached will be considered binding upon Cyanamid in future proceedings involving this same issue.

Accordingly, the Commissioner concludes that a hearing will be held on the following factual issues, which reflect the statutory criteria as to safety and effectiveness (section 512(d)(1) (A), (B), (D) and (E); 21 U.S.C. 360b(d)(1) (A), (B), (D) and (E)):

I. Has Cyanamid submitted tests by all methods reasonably applicable to show that Proban is safe for OTC use?

A. Has Cyanamid submitted tests that allow a determination that use of Proban provides an adequate "margin of safety"?

1. What effects of Proban should be considered to be adverse effects for purposes of determining its margin of safety (e.g., death, vomiting, failure to eat, liver damage, depression, tremors, increased salivation)?

2. Must Cyanamid submit data sufficient to determine what risk of adverse effects is associated with the use of Proban at its recommended dosage? Has it done so?

3. What multiple of the recommended dosage of Proban (e.g., 3X, 5X, 10X) must be shown not to produce a significant incidence of adverse effects before Proban can be considered to be safe for OTC use?

4. Has Cyanamid submitted data that show that Proban does not produce a significant incidence of adverse effects at the dosage determined in response to issue I.A.3?

5. Must Cyanamid submit data to establish that the recommended marketed dose and dosage frequency are the optimal safe and effective dose? Has it done so?

B. Has Cyanamid submitted tests that show that Proban will be safe in all dogs in which it may reasonably be expected to be used OTC?

1. Has Cyanamid identified those populations of dogs that would be at particular risk from the use of Proban?

2. Has Cyanamid demonstrated that Proban is safe in each of the populations of dogs that would be at particular risk from use of the drug?

C. Has Cyanamid submitted tests that show that Proban may be safely used in connection with those drugs and substances with which dogs treated with Proban can be reasonably expected to come in contact?

1. What are the drugs and other substances with which dogs treated with Proban can be reasonably expected to come into contact that pose a safety concern (e.g., drugs for continuous use such as similar insecticides, diethylcarbamazine, cardiac glycosides, hormones and antibiotics)?

2. Has Cyanamid submitted tests that show that Proban is safe for use in connection with the substances identified in response to issue I.C.1.?

D. Has Cyanamid submitted tests that show that Proban may be safely used continuously during the lifetime of the treated animal?

II. Do the results of the tests submitted by Cyanamid show that the proposed OTC use of Proban is unsafe or not shown to be safe?

III. Upon the basis of the information submitted by Cyanamid or other information before the Commissioner, does the Commissioner have sufficient information to determine whether the proposed OTC use of Proban is safe?

A. Would the OTC use of Proban present a significant public health risk to human beings?

B. Does the lack of adverse reaction reports from Proban's prescription use show that OTC use of the drug would be safe?

C. Do the reports of Australian use of a drug similar, but not identical, to Proban show that OTC use of Proban would be safe?

D. Does the FDA's experience with Sansalid and other organophosphates raise significant unanswered questions about the proposed use of Proban?

IV. Has Cyanamid submitted substantial evidence, consisting of adequate and well-controlled investigations, including field investigation, by experts qualified by scientific training and experience to evalute the effectiveness of Proban, to establish that Proban marketed OTC will have the effect it purports or is represented to have under its prescribed, recommended, or suggested conditions of use (section 512(d)(1)(E) (21 U.S.C. 360b(d)(1)(E)); 21 CFR 514.111(a)(5)(i)).

A. Is the "captive flea test" an adequate and well-controlled investigation demonstrating that Proban is effective for OTC use?

1. Should the study have been conducted under conditions that fairly approximate the proposed conditions of use? Was it?

a. Should the proposed marketed formulation of Proban have been studied, rather than technical-grade cythioate?

b. Should the proposed marketed dosage amount and frequency have been tested?

c. Does the taping of containers of fleas to dogs' ears fairly approximate the conditions of use?

2. Should the test subjects have been paired with placebo-control dogs during the study? Were they? (See 21 CFR 514.111(a)(5)(ii)(*a*)(*4*)).

3. Should the investigators have been "blinded" from knowledge of the test drug's administration to the test dogs? Were they?

4. Was it necessary for Cyanamid to have submitted the raw data for this test, rather than a summary chart presenting results at various dosages?

5. Does this study, even if its results are accepted as valid, show that the 3.3 milligrams per kilogram dosage for Proban is the optimal effective dose for that drug?

B. Are the "Series I" and "Series II" field studies adequate and well-controlled investigaions demonstrating that Proban is effective for OTC use?

1. Should the studies have been controlled? Were they?

a. Should Proban have been evaluated using active treatment control (see 21 CFR 514.111(a)(5)(ii), (a)(4)(iii))? Was it?

b. Should Proban have been tested using a sufficiently described historical control (21 CFR 514.111(a)(5)(ii), (a)(4)(iv))? Was it?

2. Should there have been assurance of comparability between tested and control dogs of pertinent variables such as breed, age, sex, duration, and severity of the disease (21 CFR 514.111(a)(5)(ii), (a)(2)(iii))? Was there?

3. Was the protocol for these studies adequate?

a. Should Cyanamid have submitted a protocol that clearly stated the objective(s) of thses studies (21 CFR 514.111(a)(5)(ii), (a)(1))? Has it done so?

b. Should Cyanamid have submitted a protocol that included a method of selection of subjects for these studies that provided assurances they were suitable for the purposes of these studies (21 CFR 514.111(a)(5)(ii), (a)(2)(i))? Has it done so?

c. Are the diagnostic criteria used in this test established by the protocol?

d. What confirmatory laboratory tests should have been conducted in these studies? Were such tests conducted?

e. Should Cyanamid have submitted data on environmental factors which could contribute to the likelihood of reinfestation? Has it done so?

f. Should Cyanamid have used the marketed formulation of Proban in the "Series I" tests?

g. Should the average dosage amount administered in the "Series II" test have been the recommended dosage amount (1.5 mg Proban/lb. body wt.)? Was it?

Under § 12.85 (21 CFR 12.85) the Bureau of Veterinary Medicine of FDA has filed with the Hearing Clerk a narrative statement setting forth its position on the issues for hearing and a summary of the types of evidence intended to be introduced in support of its position at the hearing. The Bureau has also filed with the Hearing Clerk copies of the supplement to NADA 33-606, and NADA's 33-606 and 33-342 (the NADA's for prescription use of Proban liquid and tablets), published studies, and all other data bearing on the issues raised herein.

Interested persons may obtain a copy of the narrative statement from the office of the Hearing Clerk, at the address given above. Such persons may also examine the data on Proban at the office of the Hearing Clerk, from 9 a.m. to 4 p.m., Monday through Friday.

The hearing will be in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation must be filed with the Hearing Clerk no later than July 14, 1980.

The hearing will be open to the public. Any participant may appear in person, or by or with other counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration. Participants other than the Bureau of Veterinary Medicine shall disclose data and information within 60 days after June 13, 1980 pursuant to 21 CFR 12.85.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including heaings under Part 12. This program is described in regulations that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective October 25, 1979 (44 FR 72585; December 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF-70), Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2932.

Therefore, under the Federal Food, Drug, and Cosmetic Act, (sec. 512,82 Stat. 343-351 (21 U.S.C. 360b)), and under authority delegated to him (21 CFR 5.1), the Commissioner orders that a public hearing be held on the issues set out in this notice.

Dated: June 10, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-17865 Filed 6-12-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0165]

Standard Oil Co. (Indiana); Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Standard Oil Co. (Indiana) has filed a petition proposing to amend the food additive regulations to provide for the safe use of calcium pelargonate as an adjuvant for polypropylene polymers in food-contact articles.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3469) has been filed by Standard Oil Co. (Indiana), 200 E. Randolph Dr., Chicago, IL 60601, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for the safe use of calcium pelargonate as an adjuvant for polypropylene articles that contact food.

The Food and Drug Administration (FDA) has carefully considered the potential environmental effects of this action and has found that the action will not have a significant impact on the human environment and that no environmental impact statement is required. FDA's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 5, 1980.

Taylor M. Quinn,

Acting Deputy Director, Bureau of Foods.

[FR Doc. 80-17832 Filed 6-12-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0200]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Giba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an antioxidant and/or stabilizer for olefin polymers which contact food.

FOR FURTHER INFORMATION CONTACT: George H. Pauli, Bureau of Foods (HFF-334), Foods and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUMPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB3507) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol as an antioxidant and/or stablilizer for olefin polymers.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence

supporting that document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Dated: June 4, 1980.

Taylor M. Quinn,

Acting Director, Bureau of Foods.

[FR Doc. 80-17581 File 6-12-80; 8:45 am]

BILLING CODE 4110-03-M

Drug Abuse Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Drug Abuse Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 31, 1982, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17687 Filed 6-12-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0084]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

Correction

In FR Doc. 80-12688, at page 27992, in the issue of Friday, April 25, 1980, make the following corrections:

(1) On page 27993, in the table, for the third substance listed "Malt syrup and extract", correct the last line under the heading "Animal study report" for that substance to read: "492/AS".

(2) On page 27995, in the table, the last substance listed is corrected to read "Stearyl alcohol".

(3) On page 27995, in the middle column, in the second full paragraph, the ninth line, through and including the seventeenth line, should be removed and inserted in the first column of the same page, last paragraph, between the seventh and eighth lines from the bottom.

BILLING CODE 1505-01-M

Office of the Secretary

White House Conference on Families; Conferences

The White House Conference on Families was called by President Carter to, "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

To fulfill the President's mandate, the Conference adopted a process that included seven national hearings attended by more than 4,000 persons; activities in virtually all the states and territories, participated in by more than 100,000 Americans; significant involvement of national organizations; and a National Research Forum.

In order to involve families themselves in the recommendation process, the Conference elected to have three White House Conferences around the nation. The first White House Conference was held in Baltimore, June 5-7. Subsequent White House Conferences will be held in Minneapolis, June 19-21, and Los Angeles, July 10-12. Approximately 650 delegates will participate in each of the three Conferences to refine, discuss, and vote on Conference recommendations. They will include delegates elected/selected at the state level; at-large delegates; state coordinators; and members of the National Advisory Committee on the White House Conference on Families.

All delegates will have the same status at the Conferences, will be entitled to participate in the work of the Conference, and will be invited to all official Conference sessions.

Provision has been made for both invited official observers and observers from the general public to be part of the White House Conferences. Observers will be welcome at the sessions indicated below, will have no voice of voting privileges, and will be seated in designated areas. Due to severe space limitations in the Conference facilities, the number of observers at each session will be very limited.

All observers must receive credentials at the Registration Desk prior to attending any Conference sessions. Official observers may attend any session open to observers. Observers from the general public will be admitted to sessions on a rotation basis, with preference being given to those who have not yet observed a session. Admission tickets for public observers will be available at the Conference Registration Desk on a first-come, first-serve basis beginning one hour before the session is scheduled to start. (Registration for the opening session will begin at 12:00 noon). Luncheon tickets may be purchased in the registration area.

The White House Conference on Families will be held at the Radisson Downtown in Minneapolis (June 19-21). Its agenda is shown below.

All sessions will be open to the public except those enclosed in brackets.

Thursday

9:00-5:00 Registration.
2:00-3:15 Opening Session—
Jim Guy Tucker,
Governor Albert H. Quie,
Mayor Donald Fraser,
Mayor George Latimer,
Address by Administration Official,
Slide—Tape Presentation.
3:30-5:00
Topic Sessions (4): Presentations on Major Topics.
5:00-7:00
Delegate Forum.
7:30-9:30
Introduction to Workgroups.

Friday

8:30-12:00 Work Group Sessions (20): Discussion & Decisions on Recommendations.
12:15-2:30 Plenary Lunch—
Speaker: Ossie Davis, Actor, Producer, Writer, and Humanitarian.
2:30-6:00 Topic Sessions (4): Review & Vote on Recommendations of Workgroups.
6:00-7:30 Delegate Forum.
[8:00 Special Event.]

Saturday

[7:45-9:00 State Meetings.]
[9:15-1:00 Plenary Session—
Voting on Recommendations,
Box Lunch.]
[2:00-3:00 Election of National Task Force Members by State Delegations.]
3:00-4:00 Closing Session.

Further information may be obtained from the White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201; telephone (202) 245-6073.

Jim Guy Tucker,

Chairperson, White House Conference on Families.

[FR Doc. 80-17972 Filed 6-12-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

ENVIRONMENTAL PROTECTION AGENCY

Memorandum of Understanding Regarding Implementation of Certain Responsibilities of the Environmental Protection Agency and the Department of the Interior Under the Surface Mining Control and Reclamation Act of 1977

AGENCIES: United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM), and the United States Environmental Protection Agency (EPA).

ACTION: Announcement of availability to the public of a Memorandum of Understanding (MOU).

SUMMARY: Pursuant to Section 503(b)(2) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), OSM and EPA announce the availability of a Memorandum of Understanding (MOU) that provides procedures for coordination between EPA and OSM in obtaining EPA concurrence with respect to OSM regulations and State programs as they relate to air and water quality standards promulgated under the authorities of the Clean Water Act, as amended (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*). In addition, it provides the framework for the coordination of issues regarding future regulations of both agencies and State programs.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343–4225.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under Section 501 of the SMCRA, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is responsible for obtaining the written concurrence of the Administrator of the EPA (the Administrator) prior to issuing regulations, or revisions to them, that relate to air or water quality standards. EPA has the responsibility under Section 503 of the SMCRA to review State surface coal mining regulatory program submissions. The Secretary may not approve any such program until he has obtained the written concurrence of the Administrator with respect to those aspects of a State program which relate to air or water quality standards. The Secretary is also responsible for soliciting and publicly disclosing the views of the Administrator under § 503(b)(1) of the SMCRA, and under § 201(c)(12) for cooperating with other Federal agencies to minimize duplication in enforcement and administration of the SMCRA.

II. Goals and Objectives of MOU

The Department of the Interior (the Department), in issuing or amending regulations establishing a permanent regulatory procedure, will provide for protection of air and water quality consistent with the purposes and provisions of the SMCRA, the Clean Air Act and the Clean Water Act, and to this end will work in close partnership with EPA. EPA will seek to identify potential environmental issues arising from proposed State program submissions or regulations drafted by the Department. Both agencies will identify, discuss, and resolve these issues as early as possible in the issuance or approval process. The Department will solicit and publicly disclose the views of the Administrator on proposed State program submissions and, prior to approval of any State program, will obtain the Administrators' written concurrence with respect to those aspects of a State program relating to air and water quality standards.

III. Availability of Copies

Copies of the MOU may be obtained from the following OSM offices:

Headquarters, U.S. Department of the Interior, South Building, Room 35, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 (202) 343–8125.
Region I, Thomas Hill Building, 1st Floor, 950 Kanawha Boulevard, East Charleston, W. VA. 25301 (303) 342–8125.
Region II, Suite 500, 530 Gay Street, S.W., Knoxville, TN 37902 (615) 637–8060.
Region III, Room 502, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, IN 46204 (317) 269–2600.
Region IV, Scarritt Building, 5th Floor, 818 Grand Avenue, Kansas City, MO 64106.
Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202 (303) 837–5511.

IV. Effective Date

The MOU took effect February 12, 1980, according to the terms of the MOU which specifies that the MOU shall take effect upon the date of the last signature by the Secretary and the Administrator and shall continue in effect for five years from that date. The MOU was signed by the Secretary on January 29, 1980, and by the Acting Administrator of EPA on February 12, 1980.

V. Principal Authors

The principal authors of the MOU are R. Bruce Carroll, Chief, Division of State Programs, and Allan Eckart, Deputy Associate General Counsel, EPA.

Dated: May 30, 1980.

Walter N. Heine,

Director,

Office of Surface Mining.

[FR Doc. 80-17880 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1791 (N-064.1/N-064.7)]

Tonopah Resource Area Off-Road Vehicle Designation and Environmental Assessment

The Battle Mountain District of the Bureau of Land Management, in response to Executive Orders 11644 and 11989 and the National Environmental Policy Act of 1969, is in the process of designating the type of off-road vehicle (ORV) use that will be allowed to take place on the public lands. Regulations (43 CFR Part 8340 Off-Road Vehicles Use of Public Lands) governing off-road vehicle use and the designation process were published in the Federal Register on June 15, 1979. An ORV is defined as any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain . . .

An environmental assessment is being prepared concerning the designations and use on approximately 3.6 million acres of public land within the Tonopah Resource Area, Battle Mountain District, Nevada. Following is a brief description of the alternatives including the proposed action.

Proposed Action

Designate the entire resource area as open to ORV except in the following areas:

Lunar Crater Volcanic Area (33,280 acres). Limited Designation. Vehicles permitted on existing roads only to protect the areas for their scenic and geologic values. Legal description:

T. 6 N., R. 52 E., M.D.M.
Sections: 1, 12, 13, All
T. 6 N., R. 53 E., M.D.M.
Sections: 1–12, 14–19, All
T. 7 N., R. 52 E., M.D.M.
Sections: 36, All
T. 7 N., R. 53 E., M.D.M.
Sections: 2–4, 9–11, 13–36, All

The above area includes Blackrock Lava Flow, Easy Chair Crater, and Lunar Crater.

Railroad Valley Wildlife Management

Area (14,720 acres). Limited Designation. Vehicles permitted on existing roads only to protect the area's critical wildlife habitat. Legal Description:

T. 9 N., R. 56 E., M.D.M.
Section 34 S½
Section 35 S½
T. 8 N., R. 56 E., M.D.M.
Section 1 SW¼
Sections 2, 3, 10, 11, 14, and 15
Section 9 E½
Section 12 NW¼
Section 16 E½
Section 18 S½SW¼
Section 19 S½
T. 9 N., R. 57 E., M.D.M.
Section 33 S½
Section 34 S½
T. 8 N., R. 57 E, M.D.M.
Sections 3, 4, 9, and 16
Section 2 NW¼N½SW¼SW¼SW¼
Section 10 N½SW¼
Section 11 W½NW¼NE¼NW¼
Section 15 W½
T. 8 N., R. 55 E., M.D.M.
Section 13 S½S½
Section 14 S½S½
Section 23 N½
Section 24
T. 7 N., R. 55 E., M.D.M.
Sections 15, 16, 21, and 28
Section 27 W½

This wildlife management area also includes the fenced portions of Lockes Pond and Big Well Pond.

Alternative One

Follow the 1975 Tonopah Management Framework Plan (MFP) decisions as they exist now. Designate the entire resource area as open to ORV use except in the following areas (See Map II, Appendix I):

1. MFP Decision R-7.2—No ORV use within sage grouse strutting grounds in Monitor and Little Fish Lake Valleys from April 1 to June 30.
2. MFP Decision R-3.1 (Addendum)—Limit vehicle use to existing roads within the fenced areas at Lockes Pond and Big Well Pond.
3. MFP Decision R-22.2—Restrict vehicle use to existing roads at Black Rock Lava Flow, 7 sections, and Easy Chair Crater, 4 sections.
4. MFP Decision R-23.2—Restrict vehicle use to existing roads at Lunar Crater, 4 sections.
5. MFP Decision W-1.2 and W-2.1—No ORV use within vegetative projects until seedings are established.
6. MFP Decision W-3.1 and W-3.2—No ORV use during wet season in "R" areas. Approximately 250,000 acres.

Alternative Two

No Action. Do not make any ORV designations.

The regulations (43 CFR Part 8340) provide for the establishment of three types of ORV use areas. Under the "Open areas and trails" designation, vehicles may be used subject only to general operating regulation and vehicle standards. For the second type of designation, "Limited areas and trails", ORV use is subject to restrictions deemed appropriate by the authorized officer. Restrictions may limit the number or types of vehicles that may enter an area, the dates and times vehicles may be used, or other similar types of restrictions. "Closed areas and trails" are designated areas and trails where the use of ORVs is permanently or temporarily prohibited.

An open house for public input regarding the alternatives including the proposed action is scheduled for July 2, 1980, at 7:30 p.m. in the Tonopah Convention Center, Tonopah, Nevada. The public comment period will be from June 25, 1980, to July 24, 1980.

For more information, please contact the responsible officer, Gene Nodine, District Manager, at the following address: Bureau of Land Management, Battle Mountain District Office, P.O. Box 194, 2nd and Scott Streets, Battle Mountain, Nevada 89820, Phone: (702) 635-5181.

Dated: June 5, 1980.

Gene Nodine,

District Manager, Battle Mountain District, Nevada.

[FR Doc. 80-17879 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-84-M

[U-40395]

Utah; Proposed Withdrawal and Reservation of Lands

June 6, 1980.

The Bureau of Land Management, Department of the Interior has filed withdrawal application, U-40395, for the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws subject to valid existing rights:

Salt Lake Meridian

T. 22 S., R. 6 W.,
Sec. 3, lots 4 and 12, SW¼NW¼, W½SE¼NW¼, SW¼, W½NW¼SE¼, and SW¼SE¼;
Sec. 4, lots 1 and 2, S½N½ and S½;
Sec. 5, S½S½SW¼, E½SE¼, E½W½ SE¼, and SW¼SW¼SE¼;
Sec. 7, E½E½E½;
Sec. 8;
Sec. 9;
Sec. 10, W½NE¼, W½, NW¼NE¼SE¼, SW¼NW¼SE¼, and W½W½SW¼SE¼;
Sec. 15, W½NE¼NW¼, W½NW¼, and SE¼NW¼;
*Sec. 16, N½, SW¼, and N½SE¼;
Sec. 17, N½, E½SE¼, E½NW¼SE¼, and NE¼SW¼SE¼;
Sec. 20, E½NE¼NE¼;
Sec. 21, NW¼NW¼.

The areas described, including both public and non public lands, aggregate 4,097.33 acres in Millard County.

*This is State of Utah owned property on which negotiations are proceeding for an exchange of lands with BLM. The withdrawal will not be effective in Section 16 until title passes to the U.S.

The applicant desires the withdrawal to protect significant scientific, educational and recreational values that are associated with the Tabernacle Hill Lava Field, a volcanic area in west central Utah. These consist of a tuff ring, caldera, spatter cones, a maze of lava tubes, pit craters, and other features. On or before July 28, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized office of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency.

The determination of the Secretary on the application will be published in the **Federal Register.**

For a period of 2 years from the date of publication of this notice in the **Federal Register** (June 13, 1980), the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the

segregation will remain in effect for a period of 20 years from the date of such approval.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, University Club Building, 136 East South Temple, Salt Lake City, Utah, 84111.

Gary J. Wicks,

State Director.

[FR Doc. 80-17877 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On March 21, 1980 a notice was published in the **Federal Register** (45 FR 18492), that an application had been filed with the Fish and Wildlife Service by the National Fish and Wildlife Laboratory, Washington, D.C. 20560 for a permit to take 330 walrus (*Odobenus rosmarus*) for the purpose of tagging, observation and others scientific research.

Notice is hereby given that on May 29, 1980, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 USC 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-6330), to the National Fish and Wildlife Laboratory subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, Virginia.

Dated: June 5, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 80-17818 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On May 2, 1980 a notice was published in the **Federal Register** (45 FR 87, that an application has been filed with the Fish and Wildlife Service by the Alaska Department of Fish and Game for a permit to take 60 walrus *(Odobenus rosemarus divergens)* in Bristol Bay, AK and Southeastern Bering Sea to determine feeding habits.

Notice is hereby given that on June 4, 1980, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 USC 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-6354), to the Alaska Department of Fish and Game subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, Virginia.

Dated: June 10, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 80-17942 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-7933 appearing on page 16590 in the issue of Friday, March 14, 1980 make the following correction.

On page 16660, "MC-148137F" (from preceding page) first column, first paragraph, in lines 11, 18, and 20, the State "MN" should by "NM".

BILLING CODE 1505-01-M

Permanent Authority Decision; Decision-Notice

Correction

In FR Doc 80-14547, published at page 31508, on Tuesday, May 13, 1980, on page 31535, in the third column, in the first full paragraph, "MC 135797 (Sub-314F)", in the eleventh line "MD" should be corrected to read "ND".

BILLING CODE 1505-01-M

Permanent Authority Decision; Decision-Notice

In FR Doc. 80-11110 appearing at page 25498 in the issue for Tuesday, April 15, 1980, on page 25527, in the second column, the ninth line of the paragraph MC 119777 (Sub-461F), reading "Corporation in Wiles County, NC to" should be corrected to read "Corporation in Wilkes County, NC".

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 377-TA-85]

Certain Slide Fastener Stringers and Machines and Components Thereof for Producing Such Slide Fasteners Stringers; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 9, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Talon Division of Textron, Inc., 626 Arch Street, Meadville, Pennsylvania 16335, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain (1) slide fastener stringers, (2) chains made from such slide fastener stringers, (3) machines for producing such slide fastener stringers, and (4) stitcher-positioner machines, or in their sale, because such stringers and machines for producing such stringers are allegedly covered by, respectively, the claims of U.S. letters Patent 3,143,779 and U.S. Letters Patent 3,123,103. The complaint alleges that the effect or tendency of the unfair acts is to destroy or substantially injure an industry, efficiently and economically operated in the United States.

Complainant requests that the Commission order a temporary exclusion from entry into the United States of the imports in question and a temporary cease and desist order during the pendency of the investigation, and requests a permanent exclusion from entry and a permanent order to cease and desist after a full investigation has been conducted.

Having considered the complaint, the Commission on June 3, 1980, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to be believe there is a violation and whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain (1) slide fasteners stringers, (2) chains made from such slide fasteners stringers, (3) machines and components thereof for producing such slide fastener stringers, into the United States or in their sale, because of the alleged infringement by such slide fastener stringers, and machines for producing such slide fastener stringers, of the claims of U.S. Letters Patent 3,143,779 and U.S. Letters Patent 3,123,103, respectively, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Talon Division of Texton, Inc., 626 Arch Street, Meadville, Pennsylvania 16335.

(b) The respondents are the following companies alleged to be engaged in the

unauthorized importation of certain (1) slide fastener stringers, (2) chains made from such slide fastener stringers, and (3) machines and components thereof for producing such slide fastener stringers into the United States, or in their sale, and are parties upon whom the complaint is to be served:

Yoshida Kogyo K.K., 1 Kanda Izumicho, Chiyoda-Ku, Tokyo, Japan;

YKK Export (USA) Inc., 1251 Valley Brook Avenue, Lyndhurst, New Jersey 07071;

YKK (USA) Inc., 1251 Valley Brook Avenue, Lyndhurst, New Jersey 07071.

(c) Edward M. Lebow, Acting Chief, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall name the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer with instructions to issue a recommended determination as to temporary relief by July 31, 1980, and the Commission hereby shortens to five (5) days the period to be allowed for filing exceptions to the recommended determination and for filing alternative findings of fact the conclusions of law under section 210.54 of the Commission's Rules.

The presiding officer shall also establish a schedule for oral presentations concerning the remedy, bonding, and public interest considerations for the purpose of creating an administrative record to be certified to the Commission by July 31, 1980. In addition to appearances and oral presentations on the remedy, bonding, and public interest considerations, the presiding officer shall provide for a pre-hearing briefing schedule to be published in the Federal Register soliciting the written views of any persons interested in this phase of investigation. The transcript of the oral presentations, the pre-hearing briefs, and the other written comments will comprise the administrative record concerning remedy, bonding, and the public interest factors to be certified to the Commission. The Commission shall issue its determination on temporary relief by August 31, 1980.

The phrase "and components thereof" has been added to paragraph (1) above on the basis of informal investigatory activities by the Commission which revealed that machines for producing the slide fastener stringers of the type alleged to infringe the claims of U.S. Letters Patent 3,123,103 can be imported in component parts as well as entirely assembled units.

The complaint contained a reference to the prevention of the establishment of an economically and efficiently operated industry in the United States, presumably referring to sources of potential domestic competition after the expiration of the subject patents. The Commission has not initiated an investigation into this allegation because complainant does not necessarily represent the interests of members of a hypothetical prospective domestic industry.

The complaint also alleges that the importation and sale of stitcher-positioner machines for use in connection with finished chain made from infringing slide fastener stringer induces infringement of U.S. Letters Patent 3,143,779. The imported stitcher-positioner machine is not alleged to infringe directly either U.S. Letters Patent 3,143,799, or U.S. Letters Patent 3,123,103. Induced infringement is a term of art which refers to a situation where the inducement occurs prior to or through the manufacture of the infringing item. In the circumstances alleged in the complaint, however, the stitcher positioner machine is not used until the allegedly infringing material has already been produced. Therefore, the Commission did not institute an investigation concerning this allegation.

Responses must be submitted by the named respondends in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York Office, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Issued: June 12, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-18094 Filed 6-13-80; 10:08 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, July 20, 1980, starting at 9:00 a.m., at the Villa Hotel, 4000 El Camino Real, San Mateo, California.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 80-17873 Filed 6-12-80; 8:45 am]

BILLING CODE 4410-05-M

Law Enforcement Assistance Administration

Addition to LEAA Guideline: Regional Information Sharing Systems Programs

AGENCY: Law Enforcement Assistance Administration (LEAA) Justice.

ACTION: Notice of addition to guideline.

SUMMARY: Notice is hereby given of an addition to the National Priority Program and Discretionary Program Announcement, published in the Federal Register on February 15, 1980 (45 FR 10702). This addition does not in any way impact upon the programs or regulations presently set out in that announcement or affect the eligibility of those individuals applying for previously announced programs. In addition, all awards have been made under this program.

SUPPLEMENTARY INFORMATION: The Department of Justice Appropriation Act, Fiscal Year 1980, (Pub. L. 96-68 and Pub. L. 96-132) created a fund for "joint state and joint state and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses,

organized criminal activity and all support activities related thereto."

Regional Information Sharing Systems Programs

Criteria

Funds under this program were awarded to support regional organizations of state and local law enforecement agencies whose objectives are to: (1) Investigate targetted activities and individuals through the provisions of analytical services and equipment and financial resources; and (2) Establish central repositories of information and resources on a regional basis designed to accomplish the above. Emphasis is given to strengthening investigative/prosecutive relationship on targetted investigations. In addition, applications were required to contain documentation that complies with the LEAA Criminal Intelligence Systems Operating Policies, 28 CFR Part 23.

Allocations

In Fiscal Year 1980, $5,000,000 was specifically appropriated by Congress for this program.

Number and Dollar Range of Grants

For grants, ranging from $250,000 to $2,300,000 have been awarded. These projects are:

Western States Information Network, California Department of Justice
Mid-Atlantic/Great Lakes Organized Crime Law Enforcement Network, Pennsylvania Crime Commission
Rocky Mountain Information Network, Arizona Drug Control District
Regional Organized Crime Information Center, North Carolina Attorney General's Office

No unsolicited applications will be considered.

Match Requirements

None.

Eligibility

Not applicable.

Submission Deadline

Not applicable.

Contact

For further information, contact Dick Ward, Program Manager, Criminal Conspiracies Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531 Telephone: (202) 724–6229.

Homer F. Broome, Jr.,

Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80–17813 Filed 6–12–80; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Defense Manpower Policy No. 4A (DMP–4A) and Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas.

FOR FURTHER INFORMATION: Contact James W. Higgins, Acting Chief, Division of Labor Market Information, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213 (202–376–6501).

SUPPLEMENTARY INFORMATION: The areas described below have been classified by the Assistant Secretary of Labor for Employment and Training as labor surplus areas for purposes of Defense Manpower Policy No. 4A (DMP–4A) and Executive Orders 12073 and 10582 pursuant to 20 C.F.R. Part 654. The areas were so classified on the basis of the criteria set forth in 20 C.F.R. § 654.5 and placed on the "Listing of Eligible Labor Surplus Areas" for June 1, 1980, through May 31, 1981.

It is the purpose of DMP No. 4A to direct attention to the potentialities of labor surplus areas for the award of appropriate procurement contracts and grants, and for the locating of new plants or facilities. Executive Order 12073 also requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is also responsible under this Order for classifying and designating areas which are labor surplus areas. Under Executive Order 10582, executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment, as defined by the Secretary of Labor. Areas of substantial unemployment are defined by Department of Labor regulations as labor surplus areas at 20 C.F.R. § 654.13.

The Department's labor surplus area classification procedures are set forth at 20 C.F.R. Part 654. The regulations require that the Assistant Secretary for Employment and Training classify labor surplus areas and publish the labor surplus areas together with corresponding geographic descriptions. Accordingly, the following list of labor surplus areas is published for the use of all Federal departments and agencies in directing procurement activity and locating new plants or facilities.

Signed at Washington, D.C., the 9th day of June 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1980 Through May 31, 1981

Eligible Labor Surplus Areas and Political Jurisdictions Included

Alabama

Baldwin County, Baldwin County.
Barbour County, Barbour County.
Bibb County, Bibb County.
Birmingham City, Birmingham City In Jefferson County.
Bullock County, Bullock County.
Bulter County, Bulter County.
Calhoun County, Calhoun County.
Chambers County, Chambers County.
Chilton County, Chilton County.
Choctaw County, Choctaw County.
Clarke County, Clarke County.
Clay County, Clay County.
Colbert County, Colbert County.
Cullman County, Cullman County.
Dallas County, Dallas County.
Escambia County, Escambia County.
Franklin County, Franklin County.
Gadsden City, Gadsden City In Etowah County.
Greene County, Greene County.
Hale County, Hale County.
Jackson County, Jackson County.
Lauderdale County, Lauderdale County.
Lawrence County, Lawrence County.
Lowndes County, Lowndes County.
Balance of Madison County, Madison County Less Huntsville City.
Marengo County, Marengo County.
Marion County, Marion County.
Marshall County, Marshall County.
Mobile City, Mobile City In Mobile County.
Balance of Mobile County, Mobile County Less Mobile City.
Monroe County, Monroe County.
Perry County, Perry County.
Pickens County, Pickens County.
Randolph County, Randolph County.
Russell County, Russell County.
Talladega County, Talladega County.
Walker County, Walker County.
Washington County, Washington County.
Wilcox County, Wilcox County.
Winston County, Winston County.

Alaska

Anchorage City, Anchorage City In Anchorage Division.
Angoon Division, Angoon Division.
Bethel Division, Bethel Division.
Bristol Bay Borough Div., Bristol Bay Borough Div.
Bristol Bay Division, Bristol Bay Division.
Cordova-McCarthy Division, Cordova-McCarthy Division.
Fairbanks Division, Fairbanks Division.
Haines Division, Haines Division.
Juneau Division, Juneau Division.
Kenai-Cook Inlet Division, Kenai-Cook Inlet Division.
Ketchikan Division, Ketchikan Division.
Kobuk Division, Kobuk Division.
Kodiak Division, Kodiak Division.
Kuskokwim Division, Kuskokwim Division.
Matanuska-Susitna Div., Matanuska-Susitna Div.
Nome Division, Nome Division.
Outer Ketchikan Division, Outer Ketchikan Division.
Prince of Wales Division, Prince of Wales Division.
Seward Division, Seward Division.
Sitka Division, Sitka Division.
Skagway-Yakutat Division, Skagway-Yakutat Division.
Southeast Fairbanks Div., Southeast Fairbanks Div.
Upper Yukon Division, Upper Yukon Division.
Valdez-Chitina-Whittier, Valdez-Chitina-Whittier.
Wade Hampton Division, Wade Hampton Division.
Wrangell-Petersburg Div., Wrangell-Petersburg Div.
Yukon-Koyukuk Division, Yukon-Koyukuk Division.

Arizona

Apache County, Apache County.
Cochise County, Cochise County.
Gila County, Gila County.
Graham County, Graham County.
Navajo County, Navajo County.
Pinal County, Pinal County.
Santa Cruz County, Santa Cruz County.
Yuma County, Yuma County.

Arkansas

Ashley County, Ashley County.
Chicot County, Chicot County.
Clay County, Clay County.
Cleburne County, Cleburne County.
Cleveland County, Cleveland County.
Crawford County, Crawford County.
Crittenden County, Crittenden County.
Desha County, Desha County.
Fort Smith City, Fort Smith City In Sebastian County.
Franklin County, Franklin County.
Fulton County, Fulton County.
Jackson County, Jackson County.
Lafayette County, Lafayette County.
Lawrence County, Lawrence County.
Lee County, Lee County.
Lincoln County, Lincoln County.
Little River County, Little River County.
Logan County, Logan County.
Balance of Miller County, Miller County Less Texarkana City, Ark.
Mississippi County, Mississippi County.
Monroe County, Monroe County.
Newton County, Newton County.
Phillips County, Phillips County.
Poinsett County, Poinsett County.
Polk County, Polk County.
Pope County, Pope County.
Prairie County, Prairie County.
Randolph County, Randolph County.
Scott County, Scott County.
Searcy County, Searcy County.
Balance of Sebastian County, Sebastian County Less Fort Smith City.
Sharp County, Sharp County.
St. Francis County, St Francis County.
Stone County, Stone County.
Texarkana City Ark., Texarkana City Ark. in Miller County.
Van Buren County, Van Buren County.
White County, White County.
Woodruff County, Woodruff County.

California

Alpine County, Alpine County.
Amador County, Amador County.
Berkeley City, Berkeley City in Alameda County.
Butte County, Butte County.
Calaveras County, Calaveras County.
Colusa County, Colusa County.
Compton City, Compton City in Los Angeles County.
Del Norte County, Del Norte County.
El Dorado County, El Dorado County.
Fresno City, Fresno City in Fresno County.
Balance of Fresno County, Fresno County less Fresno City.
Glenn County, Glenn County.
Humboldt County, Humboldt County.
Imperial County, Imperial County.
Balance of Kern County, Kern County less Bakersfield City.
Kings County, Kings County.
Lake County, Lake County.
Lassen County, Lassen County.
Madera County, Madera County.
Mariposa County, Mariposa County.
Mendocino County, Mendocino County.
Merced County, Merced County.
Modesto City, Modesto City in Stanislaus County.
Mono County, Mono County.
Balance of Monterey County, Monterey County less Salinas City.
Nevada County, Nevada County.
Oakland City, Oakland City in Alameda County.
Oceanside City, Oceanside City in San Diego County.
Ontario City, Ontario City in San Bernardino County.
Oxnard City, Oxnard City in Ventura County.
Placer County, Placer County.
Plumas County, Plumas County.
Pomona City, Pomona City in Los Angeles County.
Richmond City, Richmond City in Contra Costa County.
Balance of Riverside County, Riverside County Less Riverside City.
Sacramento City, Sacramento City in Sacramento County.
Salinas City, Salinas City in Monterey County.
San Benito County, San Benito County.
San Francisco City, San Francisco City in San Francisco County.
Balance of San Joaquin County, San Joaquin County less Stockton City.
Santa Cruz County, Santa Cruz County.
Shasta County, Shasta County.
Sierra County, Sierra County.
Simi Valley City, Simi Valley City in Ventura County.
Siskiyou County, Siskiyou County.
Balance of Solano County, Solano County less Fairfield City, Vallejo City.
Balance of Sonoma County, Sonoma County less Santa Rosa City.
Balance of Stanislaus County, Stanislaus County less Modesto City.
Stockton City, Stockton City in San Joaquin County.
Sutter County, Sutter County.
Tehama County, Tehama County.
Trinity County, Trinity County.
Tulare County, Tulare County.
Tuolumne County, Tuolumne County
Balance of Ventura County, Ventura County less Oxnard City, Simi Valley City, Thousand Oaks City, Ventura City.
Yolo County, Yolo County.
Yuba County, Yuba County.

Colorado

Archuleta County, Archuleta County.
Conejos County, Conejos County.
Costilla County, Costilla County.
Delta County, Delta County.
Eagle County, Eagle County.
Huerfano County, Huerfano County.
Lake County, Lake County.
Montezuma County, Montezuma County.
Ouray County, Ouray County.
Pitkin County, Pitkin County.
Pueblo City, Pueblo City in Pueblo County.
Balance of Pueblo County, Pueblo County less Pueblo City.
Saguache County, Saguache County
San Juan County, San Juan County.
San Miguel County, San Miguel County.

Connecticut,

Ansonia Town, Ansonia Town.
Bozrah Town, Bozrah Town
Bridgeport City, Bridgeport City.
Griswold Town, Griswold Town.
Killingly Town, Killingly Town.
Lisbon Town, Lisbon Town
New London City, New London City.
Norwich City, Norwich City.
Palinfield Town, Plainfield Town.
Putnam Town, Putnam Town.
Seymour Town, Seymour Town.
Sprague Town, Sprague Town.
Thompson Town, Thompson Town.
Torrington City, Torrington City.
Voluntown Town, Voluntown Town.
Waterbury City, Waterbury City.
Winchester Town, Winchester Town.

Delaware

Kent County, Kent County.
Sussex County, Sussex County.
Wilmington City, Wilmington City in New Castle County.

District of Columbia

Washington DC City, Washington DC City in District of Columbia.

Florida

Bay County, Bay County.
Brevard County, Brevard County.
Franklin County, Franklin County.
Glades County, Glades County.
Gulf County, Gulf County.

Hardee County, Hardee County.
Hendry County, Hendry County.
Hernando County, Hernando County.
Highlands County, Highlands County.
Indian River County, Indian River County.
Lake County, Lake County.
Liberty County, Liberty County.
Marion County, Marion County.
Miami Beach City, Miami Beach City in Dade County.
Miami City, Miami City in Dade County.
Okaloosa County, Okaloosa County.
Okeechobee County, Okeechobee County.
Pasco County, Pasco County.
Balance of Polk County, Polk County Less Lakeland City.
Putnam County, Putnam County.
St. John County, St. John County.
St. Lucie County, St. Lucie County.
Sumter County, Sumter County.
Taylor County, Taylor County.
Washington County, Washington County.
West Palm Beach City, West Palm Beach City in Palm Beach County.

Georgia

Augusta City, Augusta City in Richmond County.
Burke County, Burke County.
Chattahoochee County, Chattahoochee County.
Chattooga County, Chattooga County.
Mc Duffie County, Mc Duffie County.
Quitman County, Quitman County.
Stewart County, Stewart County.
Taliaferro County, Taliaferro County.
Wayne County, Wayne County.
Wilcox County, Wilcox County.

Hawaii

Hawaii County, Hawaii County.

Idaho

Adams County, Adams County.
Benewah County, Benewah County.
Boise County, Boise County.
Bonner County, Bonner County.
Boundary County, Boundary County.
Camas County, Camas County.
Clearwater County, Clearwater County.
Gem County, Gem County.
Idaho County, Idaho County.
Kootenai County, Kootenai County.
Lemhi County, Lemhi County.
Lewis County, Lewis County.
Valley County, Valley County

Illinois

Alexander County, Alexander County.
Bond County, Bond County.
Bureau County, Bureau County.
Calhoun County, Calhoun County.
Chicago City, Chicago City in Cook County
Clay County, Clay County.
Decatur City, Decatur City in Macon County
East St. Louis City, East St. Louis City in St. Clair County
Fayette County, Fayette County.
Franklin County, Franklin County.
Gallatin County, Gallatin County.
Grundy County, Grundy County.
Hamilton County, Hamilton County.
Hardin County, Hardin County.
Jackson County, Jackson County.
Jefferson County, Jefferson County.
Jersey County, Jersey County
Johnson County, Johnson County.
Kankakee County, Kankakee County.
Knox County, Knox County.
La Salle County, La Salle County.
Madison County, Madison County.
Marion County, Marion County.
Massac County, Massac County
Montgomery County, Montgomery County.
Perry County, Perry County.
Pope County, Pope County
Pulaski County, Pulaski County.
Putnam County, Putnam County.
Richland County, Richland County.
Saline County, Saline County.
Shelby County, Shelby County.
Union County, Union County.
Vermilion County, Vermilion County.
Warren County, Warren County.
Wayne County, Wayne County.
White County, White County.
Williamson County, Williamson County.

Indiana

Anderson City, Anderson City in Madison County.
Crawford County, Crawford County.
Daviess County, Daviess County.
Dearborn County, Dearborn County.
Elkhart County, Elkhart County.
Fayette County, Fayette County.
Franklin County, Franklin County.
Gary City, Gary City in Lake County.
Grant County, Grant County.
Greene County, Greene County.
Harrison County, Harrison County.
Henry County, Henry County.
Balance of Howard County, Howard County less Kokomo City
Jefferson County, Jefferson County.
Knox County, Knox County.
Kokomo City, Kokomo City in Howard County.
Lawrence County, Lawrence County.
Balance of Madison County, Madison County less Anderson City.
Martin County, Martin County.
Miami County, Miami County.
Muncie City, Muncie City in Delaware County.
Ohio County, Ohio County.
Orange County, Orange County.
Parke County, Parke County.
Perry County, Perry County.
Rush County, Rush County.
Scott County, Scott County.
Shelby County, Shelby County.
Switzerland County, Switzerland County.
Union County, Union County.
Vermillion County, Vermillion County.
Washington County, Washington County.
Wayne County, Wayne County.

Iowa

Appanoose County, Appanoose County.
Sioux City, Sioux City in Woodbury County.

Kentucky

Bath County, Bath County.
Bell County, Bell County.
Breathitt County, Breathitt County.
Butler County, Butler County.
Caldwell County, Caldwell County.
Carlisle County, Carlisle County.
Carter County, Carter County.
Clay County, Clay County.
Clinton County, Clinton County.
Edmonson County, Edmonson County.
Floyd County, Floyd County.
Graves County, Graves County.
Harlan County, Harlan County.
Hart County, Hart County.
Hickman County, Hickman County.
Jackson County, Jackson County.
Knott County, Knott County.
Knox County, Knox County
Lawrence County, Lawrence County.
Lee County, Lee County
Leslie County, Leslie County.
Letcher County, Letcher County.
Lewis County, Lewis County
Lincoln County, Lincoln County.
Magoffin County, Magoffin County.
Marion County, Marion County.
Marshall County, Marshall County.
McCreary County, McCreary County.
Meniffe County, Menifee County.
Morgan County, Morgan County.
Nelson County, Nelson County.
Owsley County, Owsley County.
Perry County, Perry County.
Pike County, Pike County.
Powell County, Powell County.
Robertson County, Robertson County.
Rockcastle County, Rockcastle County.
Russell County, Russell County.
Washington County, Washington County.
Whitley County, Whitley County.
Wolfe County, Wolfe County.

Louisiana

Alexandria City, Alexandria City in Rapides Parish.
Allen Parish, Allen Parish.
Ascension County, Ascension County.
Assumption County, Assumption County.
Avoyelles County, Avoyelles County.
Beauregard County, Beauregard County.
Catahoula County, Catahoula County.
Concordia County, Concordia County.
East Carroll County, East Carroll County.
Evangeline County, Evangeline County.
Franklin Parish, Franklin Parish.
Grant Parish, Grant Parish.
Iberville County, Iberville County.
Kenner City, Kenner City in Jefferson Parish.
Lake Charles City, Lake Charles City in Calcasieu County.
Livingston County, Livingston County.
Madison Parish, Madison Parish.
Morehouse County, Morehouse County.
Balance of Ouachita Parish, Ouachita Parish less Monroe City.
Pointe Coupee County, Pointe Coupee County.
Balance of Rapides Parish, Rapides Parish less Alexandria City.
Richland Parish, Richland Parish.
St. Helena Parish, St. Helena Parish.
St. James Parish, St. James Parish.
St. John Baptist Parish, St. John Baptist Parish.
St. Landry Parish, St. Landry Parish.
Tangipahoa Parish, Tangipahoa Parish.
Union Parish, Union Parish.
Vernon Parish, Vernon Parish.
Washington County, Washington County.
Webster Parish, Webster Parish.
West Carroll County, West Carroll County.
West Feliciana County, West Feliciana County.

Maine

Aroostook County, Aroostook County.
Lincoln County, Lincoln County.
Somerset County, Somerset County.
Waldo County, Waldo County.

Washington County, Washington County.

Maryland

Allegany County, Allegany County.
Baltimore City, Baltimore City in Baltimore City.
Calvert County, Calvert County.
Caroline County, Caroline County.
Dorchester County, Dorchester County.
Garrett County, Garrett County.
Kent County, Kent County.
Queen Annes County, Queen Annes County.
Somerset County, Somerset County.
Wicomico County, Wicomico County.
Worcester County, Worcester County.

Massachusetts

Acushnet Town, Acushnet Town in Bristol County
Adams Town, Adams Town in Berkshire County.
Alford Town, Alford Town in Bershire County.
Ashfield Town, Ashfield Town in Franklin County.
Ayer Town, Ayer Town in Middlesex County.
Blackstown Town, Blackstone Town in Worcester County.
Boston City, Boston City in Suffolk County.
Bourne Town, Bourne Town in Barnstable County.
Boylston Town, Boylston Town in Worcester County.
Brockton City, Brockton City in Plymouth County.
Brookfield Town, Brookfield Town in Worcester County.
Carver Town, Carver Town in Plymouth County.
Cummington Town, Cummington Town in Hampshire County.
Dunstable Town, Dunstable Town in Middlesex County.
Duxbury, Duxbury Town in Plymouth County.
Edgartown Town, Edgartown Town in Dukes County.
Everett City, Everett City in Middlesex County.
Fairhaven Town, Fairhaven Town in Bristol County.
Fall River City, Fall River City in Bristol County.
Florida Town, Florida Town in Berkshire County.
Freetown Town, Freetown Town in Bristol County.
Gloucester City, Gloucester City in Essex County.
Granville Town, Granville Town in Hampden County.
Hanson Town, Hanson Town in Plymouth County.
Hardwick Town, Hardwick Town in Worcester County.
Harvard Town, Harvard Town in Worcester County.
Harwich Town, Harwich Town in Barnstable County.
Haverhill City, Haverhill City in Essex County.
Holbrook Town, Holbrook Town in Norfolk County.
Holland Town, Holland Town in Hampden County.
Hull Town, Hull Town in Plymouth County.
Kingston Town, Kingston Town in Plymouth County.
Lakeville Town, Lakeville Town in Plymouth County.
Lancaster Town, Lancaster Town in Worcester County.
Lawrence City, Lawrence City in Essex County.
Leyden Town, Leyden Town in Franklin County.
Lynn City, Lynn City in Essex County.
Marion Town, Marion Town in Plymouth County.
Marshfield Town, Marshfield Town in Plymouth County.
Mashpee Town, Mashpee Town in Barnstable County.
Medway Town, Medway Town in Norfolk County.
Mendon Town, Mendon Town in Worcester County.
Merrimac Town, Merrimac Town in Essex County.
Middleborough Town, Middleborough Town in Plymouth County.
Middlefield Town, Middlefield Town in Hampshire County.
Millis Town, Millis Town in Norfolk County.
Millville Town, Millville Town in Worcester County.
Monroe Town, Monroe Town in Franklin County.
Montague Town, Montague Town in Franklin County.
New Ashford Town, New Ashford Town in Berkshire County.
New Bedford City, New Bedford City in Bristol County.
New Marlborough Town, New Marlborough Town in Berkshire County.
Newburyport City, Newburyport City in Essex County.
North Adams Town, North Adams town in Berkshire County.
Orleans Town, Orleans Town in Barnstable County.
Phillipston Town, Phillipston Town in Worcester County.
Plainfield Town, Plainfield Town in Hampshire County.
Plymouth Town, Plymouth Town in Plymouth County.
Plympton Town, Plympton Town in Plymouth County.
Provincetown Town, Provincetown Town in Barnstable County.
Rehobeth Town, Rehobeth Town in Bristol County.
Revere City, Revere City in Suffolk County.
Rochester Town, Rochester Town in Plymouth County.
Rockland Town, Rockland Town in Plymouth County.
Rockport Town, Rockport Town in Essex County.
Royalston Town, Royalston Town in Worcester County.
Salem City, Salem City, in Essex County.
Salisbury Town, Salisbury Town in Essex County.
Sandwich Town, Sandwich Town in Barnstable County.
Savoy Town, Savoy Town in Berkshire County.
Somerville City, Somerville City in Middlesex County.
Stoughton Town, Stoughton Town in Norfolk County.
Taunton City, Taunton City in Bristol County.
Tolland Town, Tolland Town in Hampden County.
Tyringham Town, Tyringham Town in Berkshire County.
Upton Town, Upton Town in Worcester County.
Wareham Town, Wareham Town in Plymouth County.
Wellfleet Town, Wellfleet Town in Barnstable County.
West Tisbury Town, West Tisbury Town in Dukes County.
Westport Town, Westport Town in Bristol County.
Windsor Town, Windsor Town in Berkshire County.
Worthington Town, Worthington Town in Hampshire County.

Michigan

Alcona County, Alcona County.
Alger County, Alger County.
Alpena County, Alpena County.
Antrim County, Antrim County.
Arenac County, Arenac County.
Baraga County, Baraga County.
Bay County, Bay County.
Benzie County, Benzie County.
Berrien County, Berrien County.
Charlevoix County, Charlevoix County.
Cheboygan County, Cheboygan County.
Chippewa County, Chippewa County.
Clare County, Clare County,
Crawford County, Crawford County.
Delta County, Delta County.
Detroit City, Detroit City in Wayne County.
East Lansing City, East Lansing City in Ingham County.
Emmet County, Emmet County.
Flint City, Flint City in Genesee County.
Balance of Genesee County, Genesee County less Flint City.
Gladwin County, Gladwin County.
Gogebic County, Gogebic County.
Gratiot County, Gratiot County.
Houghton County, Houghton County.
Huron County, Huron County.
Ionia County, Ionia County.
Iosco County, Iosco County.
Iron County, Iron County.
Kalkaska County, Kalkaska County.
Keweenaw County, Keweenaw County.
Lake County, Lake County.
Leelanau County, Leelanau County.
Lenawee County, Lenawee County.
Luce County, Luce County.
Markinac County, Markinac County.
Balance of Macomb County, Macomb County less Clinton Township, Roseville City, St. Clair Shores City, Sterling Heights City, Warren City.
Manistee County, Manistee County.
Marquette County, Marquette County.
Mason County, Mason County.
Missaukee County, Missaukee County.
Monroe County, Monroe County.
Montcalm County, Montcalm County.
Montmorency County, Montmorency County.
Muskegon County, Muskegon County.
Newaygo County, Newaygo County.
Oceana County, Oceana County.
Ogemaw County, Ogemaw County.
Ontonagon County, Ontonagon County.
Osceola County, Osceola County.
Oscoda County, Oscoda County.
Pontiac City, Pontiac City in Oakland County.

Presque Isle County, Presque Isle County.
Roscommon County, Roscommon County.
Roseville City, Roseville City in Macomb County.
Saginaw City, Saginaw County.
Sanilac County, Sanilac County.
Schoolcraft County, Schoolcraft County.
Shiawassee County, Shiawassee County.
St. Clair County, St. Clair County.
St. Joseph County, St. Joseph County.
Taylor City, Taylor City in Wayne County.
Tuscola County, Tuscola County.
Waterford Township, Waterford Township in Oakland County.
Wexford County, Wexford County.

Minnesota

Aitkin County, Aitkin County.
Becker County, Becker County.
Clearwater County, Clearwater County.
Hubbard County, Hubbard County.
Itasca County, Itasca County.
Mahnomen County, Mahnomen County.
Marshall County, Marshall County.
Morrison County, Morrision County.
Red Lake County, Red Lake County.

Mississippi

Adams County, Adams County.
Alcorn County, Alcorn County.
Attala County, Attala County.
Benton County, Benton County.
Bolivar County, Bolivar County.
Coahoma County, Coahoma County.
George County, George County.
Greene County, Greene County.
Grenada County, Grenada County.
Holmes County, Holmes County.
Humphreys County, Humphreys County.
Jackson County, Jackson County.
Jasper County, Jasper County.
Jefferson County, Jefferson County.
Jefferson Davis County, Jefferson Davis County.
Kemper County, Kemper County.
Leflore County, Leflore County.
Madison County, Madison County.
Marshall County, Marshall County.
Montgomery County, Montgomery County.
Noxubee County, Noxubee County.
Panola County, Panola County.
Pearl River County, Pearl River County.
Quitman County, Quitman County.
Sharkey County, Sharkey County.
Stone County, Stone County.
Sunflower County, Sunflower County.
Tallahatchie County, Tallahatchie County.
Tate County, Tate County.
Tunica County, Tunica County.
Walthall County, Walthall County.
Warren County, Warren County.
Washington County, Washington County.
Wilkinson County, Wilkinson County.
Winston County, Winston County.
Yazoo County, Yazoo County.

Missouri

Bollinger County, Bollinger County.
Butler County, Butler County.
Dunklin County, Dunklin County.
Mississippi County, Mississippi County.
Moniteau County, Moniteau County.
Morgan County, Morgan County.
Oregon County, Oregon County.
Ripley County, Ripley County.
Shannon County, Shannon County.
St. Louis City, St. Louis City in St. Louis City.
Stone County, Stone County.
Texas County, Texas County.
Washington County, Washington County.
Wayne County, Wayne County.
Webster County, Webster County.

Montana

Blaine County, Blaine County.
Carter County, Carter County.
Deer Lodge County, Deer Lodge County.
Flathead County, Flathead County.
Glacier County, Glacier County.
Granite County, Granite County.
Jefferson County, Jefferson County.
Judith Basin County, Judith Basin County.
Lincoln County, Lincoln County
Mineral County, Mineral County.
Ravalli County, Ravalli County.
Sanders County, Sanders County.
Silver Bow County, Silver Bow County.

Nebraska

Thurston County, Thurston County.

Nevada

Lyon County, Lyon County.
White Pine County, White Pine County.

New Jersey

Atlantic City, Atlantic City in Atlantic County.
Balance of Atlantic County, Atlantic County less Atlantic City.
Bayonne City, Bayonne City in Hudson County.
Camden City, Camden City in Camden County.
Cape May County, Cape May County.
Balance of Cumberland County, Cumberland County less Vineland City.
East Orange City, East Orange City in Essex County.
Elizabeth City, Elizabeth City in Union County.
Gloucester County, Gloucester County.
Balance of Hudson County, Hudson County less Bayonne City, Jersey City, Union City.
Jersey City, Jersey City in Hudson County.
Balance of Monmouth County, Monmouth County less Middletown Township.
Newark City, Newark City in Essex County.
Balance of Ocean County, Ocean County less Brick Township, Dover Township.
Passaic City, Passaic City in Passaic County.
Paterson City, Paterson City in Passaic County.
Sussex County, Sussex County.
Trenton City, Trenton City in Mercer County.
Union City, Union City in Hudson County.
Vineland City, Vineland City in Cumberland County.

New Mexico

Guadalupe County, Guadalupe County.
Luna County, Luna County.
Mora County, Mora County.
Rio Arriba County, Rio Arriba County.
San Juan County, San Juan County.
San Miguel County, San Miguel County.
Taos County, Taos County.

New York

Allegany County, Allegany County.
Binghamton City, Binghamton City in Broome County.
Brookhaven Town, Brookhaven Town in Suffolk County.
Buffalo City, Buffalo City in Erie County.
Cayuga County, Cayaga County.
Clinton County, Clinton County.
Columbia County, Columbia County.
Cortland County, Cortland County.
Balance of Erie County, Erie County less Amherst Town, Buffalo City, Cheektowaga Town, Hamburg Town, Tonowanda Town; West Seneca Township.
Essex County, Essex County.
Franklin County, Franklin County.
Fulton County, Fulton County.
Genesee County, Genesee County.
Greene County, Greene County.
Hamburg Town, Hamburg Town in Erie County.
Hamilton County, Hamilton County.
Herkimer County, Herkimer County.
Jefferson County, Jefferson County.
Lewis County, Lewis County.
Montgomery County, Montgomery County.
Mount Vernon City, Mount Vernon City in Westchester County.
Balance of Nassau County, Nassau County less Hempstead Town, North Hempstead Town, Oyster Bay Town.
New Rochelle City, New Rochelle City in Westchester County.
New York City, New York City in Bronx County, Kings County, New York County, Queens County, Richmond County.
Balance of Niagara County, Niagara County less Niagara Falls City.
Niagara Falls City, Niagara Falls City in Niagara County.
Oswego County, Oswego County.
Balance of Rockland County, Rockland County less Clarkstown Town, Orangetown Town, Ramapo Town.
Schoharie County, Schoharie County.
St. Lawrence County, St. Lawrence County.
Balance of Suffolk County, Suffolk County less Babylon Town, Brookhaven Town, Huntington Town, Islip Town, Smithtown Town.
Sullivan County, Sullivan County.
Ulster County, Ulster County.
Utica City, Utica City in Oneida County.
Warren County, Warren County.
Washington County, Washington County.
Wayne County, Wayne County.
Wyoming County, Wyoming County.
Yonkers City, Yonkers City in Westchester County.

North Carolina

Balance of Cumberland County, Cumberland County less Fayetteville City.
Graham County, Graham County.
Hoke County, Hoke County.
Robeson County, Robeson County.
Tyrrell County, Tyrrell County.
Warren County, Warren County.

North Dakota

Eddy County, Eddy County.
McHenry County, McHenry County.
Rolette County, Rolette County.
Sioux County, Sioux County.

Ohio

Adams County, Adams County.
Akron City, Akron City in Summit County.
Cincinnati City, Cincinnati City in Hamilton County.
Clermont County, Clermont County.
Cleveland City, Cleveland City in Cuyahoga County.

Dayton City, Dayton City in Montgomery County.
Guernsey County, Guernsey County.
Harrison County, Harrison County.
Hocking County, Hocking County.
Jackson County, Jackson County.
Lima City, Lima City in Allen County.
Mansfield City, Mansfield City in Richland County.
Monroe County, Monroe County.
Morgan County, Morgan County.
Noble County, Noble County.
Ottawa County, Ottawa County.
Perry County, Perry County.
Pike County, Pike County.
Sandusky County, Sandusky County.
Scioto County, Scioto County.
Seneca County, Seneca County.
Warren City, Warren City in Trumbull County.
Warren County, Warren County.
Youngstown City, Youngstown City in Mahoning County.

Oklahoma

Choctaw County, Choctaw County.
Coal County, Coal County.
Haskell County, Haskell County.
Latimer County, Latimer County.
Pittsburg County, Pittsburg County.
Pushmataha County, Pushmataha County.

Oregon

Baker County, Baker County.
Clatsop County, Clatsop County.
Columbia County, Columbia County.
Coos County, Coos County.
Crook County, Crook County.
Curry County, Curry County.
Deschutes County, Deschutes County.
Douglas County, Douglas County.
Grant County, Grant County.
Harney County, Harney County.
Hood River County, Hood River County.
Jackson County, Jackson County.
Josephine County, Josephine County.
Klamath County, Klamath County.
Lake County, Lake County.
Balance of Lane County, Lane County less Eugene City.
Linn County, Linn County.
Union County, Union County.
Wallowa County, Wallowa County.
Wasco County, Wasco County.
Wheeler County, Wheeler County.

Pennsylvania

Altoona City, Altoona City in Blair County.
Armstrong County, Armstrong County.
Bedford County, Bedford County.
Balance of Blair County, Blair County less Altoona City.
Bristol County, Bristol Township in Bucks County.
Cambria County, Cambria County.
Cameron County, Cameron County.
Carbon County, Carbon County.
Chester City, Chester City in Delaware County.
Clearfield County, Clearfield County.
Clinton County, Clinton County.
Columbia County, Columbia County.
Crawford County, Crawford County.
Elk County, Elk County.
Erie City, Erie City in Erie County.
Fayette County, Fayette County.
Fulton County, Fulton County.
Greene County, Greene County.
Huntingdon County, Huntingdon County.
Jefferson County, Jefferson County.
Juniata County, Juniata County.
Balance of Lackawanna County, Lackawanna County less Scranton City.
Balance of Luzerne County, Luzerne County less Wilkes-Barre City.
Lycoming County, Lycoming County.
Mifflin County, Mifflin County.
Monroe County, Monroe County.
Northumberland County, Northumberland County.
Philadelphia City, Philadelphia City in Philadelphia County.
Pike County, Pike County.
Pittsburgh City, Pittsburgh City in Allegheny County.
Potter County, Potter County.
Reading City, Reading City in Berks County.
Schuylkill County, Schuylkill County.
Scranton City, Scranton City in Lackawanna County.
Somerset County, Somerset County.
Sullivan County, Sullivan County.
Susquehanna County, Susquehanna County.
Tioga County, Tioga County.
Wayne County, Wayne County.
Westmoreland County, Westmoreland County.
Wilkes-Barre City, Wilkes-Barre City in Luzerne County.
Wyoming County, Wyoming County.

Puerto Rico

Aguadilla Municipio, Aguadilla Municipio in Puerto Rico.
Arecibo Municipio, Arecibo Municipio in Puerto Rico.
Bayamon Municipio, Bayamon Municipio in Puerto Rico.
Caguas Municipio, Caguas Municipio in Puerto Rico.
Carolina Municipio, Carolina Municipio in Puerto Rico.
Mayaguez Municipio, Mayaguez Municipio in Puerto Rico.
Ponce Municipio, Ponce Municipio in Puerto Rico.
Balance of Puerto Rico, Puerto Rico less Aguadilla Municipio, Arecibo Municipio, Bayamon Municipio, Caguas Municipio, Carolina Municipio, Guaynabo Municipio, Mayaguez Municipio, Ponce Municipio, San Juan Municipio, Toa Baja Municipio.
San Juan Municipio, San Juan Municipio in Puerto Rico.
Toa Baja Municipio, Toa Baja Municipio in Puerto Rico.

Rhode Island

Bristol Town, Bristol Town.
Central Falls City, Central Falls City.
Charlestown Town, Charlestown Town.
East Providence City, East Providence City.
Johnston Town, Johnston Town.
Narragansett Town, Narragansett Town.
New Shoreham Town, New Shoreham Town.
North Providence Town, North Providence Town.
Providence City, Providence City.
Warren Town, Warren Town.
West Warwick Town, West Warwick Town.
Woonsocket City, Woonsocket City.

South Carolina

Colleton County, Colleton County.
Georgetown County, Georgetown County.
Marion County, Marion County.
Marlboro County, Marlboro County.
McCormich County, McCormick County.
North Charleston City, North Charleston City in Charleston County.
Union County, Union County.

South Dakota

Buffalo County, Buffalo County.
Corson County, Corson County.
Dewey County, Dewey County.
Shannon County, Shannon County.

Tennessee

Bledsoe County, Bledsoe County.
Campbell County, Campbell County.
Carroll County, Carroll County.
Claiborne County, Claiborne County.
Clarksville City, Clarksville City in Montgomery County.
Clay County, Clay County.
Cocke County, Cocke County.
Crockett County, Crockett County.
Cumberland County, Cumberland County.
De Kalb County, De Kalb County.
Decatur County, Decatur County.
Dickson County, Dickson County.
Fayette County, Fayette County.
Fentress County, Fentress County.
Franklin County, Franklin County.
Gibson County, Gibson County.
Grainger County, Grainger County.
Greene County, Greene County.
Grundy County, Grundy County.
Hamblen County, Hamblen County.
Hancock County, Hancock County.
Hardeman County, Hardeman County.
Hardin County, Hardin County.
Haywood County, Haywood County.
Henderson County, Henderson County.
Henry County, Henry County.
Houston County, Houston County.
Jackson County, Jackson County.
Jefferson County, Jefferson County.
Lake County, Lake County.
Lawrence County, Lawrence County.
Lewis County, Lewis County.
Macon County, Macon County.
McMinn County, McMinn County.
McNairy County, McNairy County.
Meigs County, Meigs County.
Monroe County, Monroe County.
Morgan County, Morgan County.
Overton County, Overton County.
Perry County, Perry County.
Pickett County, Pickett County.
Polk County, Polk County.
Rhea County, Rhea County.
Roane County, Roane County.
Scott County, Scott County.
Sevier County, Sevier County.
Stewart County, Stewart County.
Van Buren County, Van Buren County.
Wayne County, Wayne County.

Texas

Brownsville City, Brownsville City in Cameron County.
Balance of Cameron County, Cameron County less Brownsville City.
Dimmit County, Dimmit County.
El Paso City, El Paso City in El Paso County.
Balance of El Paso County, El Paso County less El Paso City.
Frio County, Frio County.
Balance of Hidalgo County, Hidalgo County less McAllen City.

Jim Hogg County, Jim Hogg County.
Killeen City, Killeen City in Bell County.
La Salle County, La Salle County.
Laredo City, Laredo City in Webb County.
Loving County, Loving County.
Maverick County, Maverick County.
McAllen City, McAllen City in Hidalgo County.
Newton County, Newton County.
Port Arthur City, Port Arthur City in Jefferson County.
Balance of Potter County, Potter County less Amarillo City-Potter.
Starr County, Starr County.
Texarkana City, Tex, Texarkana City, Tex. in Bowie County.
Val Verde County, Val Verde County.
Balance of Webb County, Webb County less Laredo City.
Willacy County, Willacy County.
Zapata County, Zapata County.
Zavala County, Zavala County.

Utah

Garfield County, Garfield County.
Sanpete County, Sanpete County.
Wasatch County, Wasatch County.

Vermont

Essex County, Essex County.
Grand Isle County, Grand Isle County.
Lamoille County, Lamoille County.
Orleans County, Orleans County.

Virginia

Brunswick County, Brunswick County.
Buchanan County, Buchanan County.
Buena Vista City, Buena Vista City.
Caroline County, Caroline County.
Craig County, Craig County.
Danville City, Danville City.
Dickenson County, Dickenson County.
Franklin City, Franklin City.
Fredricksburg City, Fredricksburg City.
Giles County, Giles County.
Grayson County, Grayson County.
King and Queen County, King and Queen County.
Lancaster County, Lancaster County.
Lee County, Lee County.
Lunenburg County, Lunenburg County.
Mecklenburg County, Mecklenburg County.
Northampton County, Northampton County.
Northumberland County, Northumberland County.
Page County, Page County.
Radford City, Radford City.
Richmond County, Richmond County.
Russell County, Russell County.
Smyth County, Smyth County.
South Boston City, South Boston City.
Suffolk City, Suffolk City.
Surry County, Surry County.
Sussex County, Sussex County.
Tazewell County, Tazewell County.
Warren County, Warren County.
Westmoreland County, Westmoreland County.
Williamsburg City, Williamsburg City.

Washington

Adams County, Adams County.
Chelan County, Chelan County.
Clallam County, Clallam County.
Columbia County, Columbia County.
Cowlitz County, Cowlitz County.
Douglas County, Douglas County.
Ferry County, Ferry County.
Grant County, Grant County.
Grays Harbor County, Grays Harbor County.
Island County, Island County.
Jefferson County, Jefferson County.
Kittitas County, Kittitas County.
Klickitat County, Klickitat County.
Lewis County, Lewis County.
Okanogan County, Okanogan County.
Pacific County, Pacific County.
Pend Oreille County, Pend Oreille County.
Skagit County, Skagit County.
Skamania County, Skamania County.
Stevens County, Stevens County.
Tacoma City, Tacoma City in Pierce County.
Whatcom County, Whatcom County.
Yakima City, Yakima City in Yakima County.
Balance of Yakima County, Yakima County less Yakima City.

West Virginia

Braxton County, Braxton County.
Calhoun County, Calhoun County.
Clay County, Clay County.
Fayette County, Fayette County.
Grant County, Grant County.
Greenbrier County, Greenbrier County.
Jackson County, Jackson County.
Lewis County, Lewis County.
Lincoln County, Lincoln County.
Logan County, Logan County.
Marion County, Marion County.
Marshall County, Marshall County.
McDowell County, McDowell County.
Mercer County, Mercer County.
Mingo County, Mingo County.
Nicholas County, Nicholas County.
Preston County, Preston County.
Raleigh County, Raleigh County.
Randolph County, Randolph County.
Ritchie County, Ritchie County.
Roane County, Roane County.
Summers County, Summers County.
Taylor County, Taylor County.
Webster County, Webster County.
Wyoming County, Wyoming County.

Wisconsin

Bayfield County, Bayfield County.
Forest County, Forest County.
Marquette County, Marquette County.
Menominee County, Menominee County.
Price County, Price County.
Sawyer County, Sawyer County.
Taylor County, Taylor County.
Vilas County, Vilas County.
Washburn County, Washburn County.

[FR Doc. 80-17904 Filed 6-12-80; 8:45 am]
BILLING CODE 4510-30-M

Office of the Secretary

[TA-W-7407]

Ford Aerospace & Communications Corp.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) that sales or production, or both, of the firm or subdivison have decreased absolutely.

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Union of Electrical, Radio and Machine Workers Union on behalf of workers at the Bedford, Indiana plant of the Ford Aerospace and Communications Corporation, a wholly owned subsidiary of the Ford Motor Company. Workers at the Bedford Plant produce windshield washer reservoirs/pumps, fuel senders, purge control valves, hose and harness assemblies and central fuel injection pumps.

The investigation revealed that with respect to workers engaged in employment related to the production of hose and harness assemblies, criterion (2) has not been met.

Plant sales of hose and harness assemblies began in February 1979. Sales increased in quantity in each consecutive quarter of 1979 and also increased in the first quarter of 1980 compared with the same period in 1979.

With respect to workers engaged in employment ralated to the production of windshield washer reservoirs/pumps, fuel senders, purge control valves and central fuel injection pumps, the investigation revealed that all the criteria have been met

In order to determine if increased imports contributed importantly to production and employment declines at the Bedford, Indiana Plant of the Ford Aerospace and Communications Corporation, the Department sought to determine the degree to which this facility is integrated into the production of Ford Motor Company cars, trucks, vans, and general utility vehicles which have been subject to import injury. When substantial integration was established the Department considered imports of like or directly competitive cars, trucks, vans and general utility vehicles in determining import injury to workers producing component parts.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 17 of Ford Motor Company's car and truck assembly plants (TA–W–6438, 6849–50, 6874, 6946–48, 6950–58, 6955A). Workers at these plants are engaged in the production of one or more of the following car or truck lines: Pinto, Bobcat, Fairmont, Zephyr, Granada, Monarch, Ford LTD, Mercury, Continental, pick-ups, vans and general utility vehicles.

During the course of the investigation, it was established that the Bedford, Indiana Plant of the Ford Aerospace and Communications Corporation produces virtually all of its products for use in one or more of the Ford car and truck lines which have been subject to import injury. Therefore the Bedford, Indiana Plant is substantially integrated into the production of the trade impacted Ford car and truck lines.

Conclusion

After careful review, I conclude that increased imports of articles like or directly competitive with Pinto, Bobcat, Fairmont, Zephyr, Granada, Monarch, Ford LTD, Mercury, Continental, pick-ups, vans, and general utility vehicles produced by the Ford Motor Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Bedford, Indiana Plant of the Ford Aerospace and Communications Corporation who are engaged in employment related to the production of windshield washer reservoirs/pumps, fuel senders, purge control valves, and central fuel injection pumps. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bedford, Indiana Plant of the Ford Aerospace and Communications Corporation who are engaged in employment related to the production of windshield washer reservoirs/pumps, fuel senders, purge control valves and central fuel injection pumps who became totally or partially separated from employment on or after March 10, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of May 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–17914 Filed 6–12–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6635]

Ford Motor Co., Buffalo Stamping Plant; Revised Determination of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on February 21, 1980 the Department issued a Notice of Negative Determination of Eligibility to Apply for Adjustment Assistance applicable to workers and former workers of the Buffalo, New York Stamping Plant of the Ford Motor Company.

The Notice of Negative Determination was published in the **Federal Register** on February 29, 1980 (45 FR 13550).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance on its own motion reopened the investigation to determine the eligibility of workers and former workers of the Buffalo, New York Stamping Plant of the Ford Motor Company to apply for adjustment assistance. This further investigation revealed that all of the group eligiblity requirements of Section 222 of the Act have been met.

The Buffalo Stamping Plant is part of the Metal Stamping Division of the Ford Motor Company. In order to determine if increased imports contributed importantly to production and employment declines at the Buffalo Stamping Plant, the Department sought to determine the degree to which this facility is integrated into the production of Ford Motor Company cars, trucks, vans, and general utility vehicles which have been subject to import injury. When substantial integration was established the Department considerd imports of like or directly competitive cars, trucks, vans and general utility vehicles in determining import injury to workers producing component parts.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 17 of Ford Motor Company's car and truck assembly plants (TA–W–6438, 6849–50, 6874, 6946–48, 6950–58, 6955A). Workers at these plants are engaged in the production of one or more of the following car or truck lines: Pinto, Bobcat, Fairmont, Zephyr, Granada, Monarch, Ford LTD, Mercury, Continental, pick-ups, vans and general utility vehicles.

During the course of the investigation, it was established that the Buffalo, New York Stamping Plant of the Ford Motor Company produces virtually all of its products for use in one or more of the Ford car and truck lines which have been subject to import injury. Therefore, the Buffalo Stamping Plant is substantially intergrated into the productin of the trade impacted Ford car and truck lines.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following certification:

All workers of the Buffalo, New York Stamping Plant of the Ford Motor Company who became totally or partially seaprated from emplyment on or after January 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 2d day of June 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–17915 Filed 6–12–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6845]

Goodyear Tire Rubber Co.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 24, 1980 in response to a petition which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers at the Topeka, Kansas plant of the Goodyear Tire and Rubber Company. The workers produce earthmover, truck, tractor and passenger car tires. In the following determinations, without regard to whether any of the other criteria have been met for workers producing passenger car, truck and tractor tires, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department survey of major customers and a random sample of

smaller customers of Goodyear revealed that most customers either do not import or decreased purchases of imported passenger car tires in 1979 compared with 1978. The reliance on imports of passenger car tires by the customers of Goodyear was substantially below the industry-wide levels in 1978 and 1979.

The investigation revealed that the decline in production of truck tires at Goodyear was primarily due to a decreased demand for tires by truck manufacturers, reflecting decreased vehicle production in 1979 compared with 1978. A Department survey of major truck tires customers revealed that most customers either or increased purchases from Goodyear. The increase in purchases of imports by customers who decreased purchases from Goodyear in 1979 compared with 1978 was not significant in terms of their total truck tire purchases.

U.S. imports of tractor tires were negligible in 1978 and 1979.

For workers producing earthmover tires, all of the criteria have been met.

U.S. imports of truck tires, which include earth mover tires, increased absolutely and relative to domestic production in 1979 compared with 1978.

Company imports of earthmover tires increased in 1979 compared with 1978. The ratio of company imports to company production of earthmover tires increased in 1979 compared with 1978.

A survey of earthmover tire customers of Goodyear indicated that customers who increased imports of earthmover tires accounted for most of Goodyear's decline in sales for this product in 1979 compared with 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the earthmover tires produced at the Topeka, Kansas plant of the Goodyear Tire and Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Topeka, Kansas plant of the Goodyear Tire and Rubber Company engaged in employment related to the production of earthmover tires who became totally or partially separated from employment on or after September 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that workers building passenger car, truck, and tractor tires at the Topeka plant are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 11th day of April 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-17916 Filed 6-12-80; 8:45 a.m.]

BILLING CODE 4510-28-M

[TA-W-6845]

Goodyear Tire & Rubber Co.; Negative Determination Regarding Application for Reconsideration

By letter of May 13, 1980, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Goodyear Tire and Rubber Company's Topeka, Kansas, plant.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

The union requested administrative reconsideration only of that part of the determination regarding passenger car tires. The union claims that the Department placed too much reliance on its customer survey as it applies to passenger car tires without adequate recognition of the changing nature of the industry and market. The union further claims that the Goodyear Tire and Rubber Company imports a substantial amount of passenger car tires from its foreign subsidiaries, and there is no indication that the Department took this into account.

The Department's review showed that workers of the Goodyear Tire and Rubber Company's Topeka, Kansas, plant producing passenger car, truck and tractor tires were denied eligibility because they did not meet the "contributed importantly" test of the Trade Act of 1974. All of the criteria were met for workers producing earthmover tires.

The Department's survey of passenger car tire customers which represented a substantial part of the subject firm's sales decline in 1979 showed that most customers either did not import or decreased their purchases of imported passenger car tires in 1979 compared to 1978. The survey further showed that most passenger car tire customers of Goodyear in the replacement market either increased their purchases of passenger car tires from Goodyear in 1979 compared to 1978 or, if they had declining purchases from Goodyear, they either did not import or had declining import purchases. Further, company imports of passenger car tires were significantly down in the last six months of 1979 compared to the same period in 1978 as well as the first six months of 1979.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 5th day of June 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-17917 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7133]

Goodyear Tire & Rubber Co.; Negative Determination Regarding Application for Reconsideration

By letter of May 12, 1980, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Goodyear Tire and Rubber Company's Union City, Tennessee, plant. The determination was published in the **Federal Register** on April 18, 1980, (45 FR 26497).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the Department only considered the results of its

customer survey without indicating how much of Goodyear's business was involved and without mentioning other factors. The union further claims that it's very probable that the Goodyear Tire and Rubber Company imported passenger car tires in the period under consideration, and there was no indication whether this possibility was considered. The union does not contest that part of the basis for the denial relating to tires manufactured as original equipment for domestically-produced cars.

The Department's review indicated that workers of Goodyear's Union City, Tennessee, plant were denied eligibility because they did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of customers, which represented a substantial portion of Goodyear's 1979 sales decline in the replacement market, showed that most customers either did not import or decreased their purchases of imported passenger car tires in 1979 compared to 1978. The survey further showed that most passenger car tire customers of Goodyear in the replacement market either increased their purchases of passenger car tires from Goodyear in 1979 compared to 1978 or, if they had declining purchases from Goodyear, they either did not import or had declining import purchases. The few customers which had declining purchases from Goodyear and increased import purchases represented an insignificant percentage of the Union City, Tennessee, plant's 1979 production of passenger car tires. The review further showed that company imports of passenger car tires were significantly down in the last six months of 1979.

The Department does not agree with the union's claim that excessive reliance was placed on the Department's customer survey without examining other factors. In order for a worker group to be certified eligible by the Department for trade adjustment assistance, it must meet all three statutory criteria for group eligibility under Section 222 of the Trade Act including the "contributed importantly" test. Merely meeting the employment, production or sales and even the increased import criteria without meeting the "contributed importantly" test are not enough for the Department to grant a worker group certification. The Department's survey of customers rightfully plays a major part in evaluating whether the "contributed importantly" test has been met.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 5th day of June 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-17918 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7583]

K-T Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 14, 1980 in response to a worker petition received on March 26, 1980 which was filed on behalf of workers and former workers producing window ventilators and steps, etc. the K-T Corporation, Shelbyville, Indiana.

The petitioners requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 4th day of June 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17919 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7853]

Washburn Wire Products, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 28, 1980 in response to a worker petition received on April 8, 1980 which was filed by the Steel Fabricators Independent Union of New York on behalf of workers and former workers producing steel wire and cable at the Washburn Wire Products, Inc., New York, New York.

In a letter dated May 9, 1980, the legal representative of the petitioner requested the withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of June 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17920 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period June 2-6th, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA-W-7567; Cloverdale Sports Co., Inc.; Elmont, Long Island, N.Y.

The investigation was initiated on April 7, 1980 in response to a petition which was filed on behalf of workers at Cloverdale Sports Company, Incorporated, Elmont, Long Island, New York. The workers produced ladies' skirts and pants.

U.S. imports of women's, misses' and children's skirts increased absolutely in 1979 compared to 1978.

U.S. imports of women's, misses' and children's slacks and shorts increased absolutely and relative to domestic production in each year from 1976 through 1978 compared to each preceding year, and the absolute level of imports in 1979 remained above the average level for the years 1975 through 1978.

A Departmental survey was conducted with the manufacturers from whom Cloverdale received contract work in 1978 and 1979. The survey revealed that manufacturers representing all of Cloverdale's sales decreased contracts with Cloverdale for ladies' skirts and pants and substantially increased their imports of ladies' skirts and pants in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Cloverdale Sports Company, Incorporated, Elmont, Long Island, New York who became totally or partially separated from employment on or after March 3, 1979 are eligible to apply for adjustment

assistance under Section 223 of the Trade Act of 1974.

TA–W–7472; Essex Group, Inc., Du Quoin, Ill.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the Southern Illinois Laborers' District Council on behalf of workers at Du Quoin, Illinois plant of Essex Group, Incorporated. The workers produce automobile wire harnesses.

U.S. imports of automobile wire harnesses increased in value in 1979 compared with 1978.

Company imports of automobile wire harnesses from foreign assembly plants increased in value, both absolutely and as a percentage of total company sales, in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that:

All workers at the Du Quoin, Illinois plant of Essex Group, Incorporated who became totally or partially separated from employment on or after March 4, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7529; Schatz Federal Bearings Co., Inc., Poughkeepsie, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at Schatz Federal Bearings Company, Incorporated, Poughkeepsie, New York. The workers produce various kinds of ball bearings.

U.S. imports of ball bearings increased absolutely and relatively in 1978 compared to 1977, and in 1979 compared to 1978.

A survey conducted by the Department of Commerce revealed that a major customer reduced purchases from Schatz Federal Bearings Company, Incorporated in 1979 compared to 1978, while increasing purchases of imported bearings during the same period.

In this case, therefore, the certifying officer has determined that

All workers of Schatz Federal Bearings Company, Incorporated, Poughkeepsie, New York who became totally or partially separated from employment on or after December 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7476; Solbro Sportswear, Inc.; Toxey, Ala.

The investigation was initiated on march 31, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Solbro Sportswear, Incorporated, Toxey, Alabama. The workers produce women's blouses.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely from 1977 to 1978. In 1979 imports increased absolutely compared to the average level of imports in the preceding four years. The ratio of imports to domestic production has exceeded 60 percent each year from 1975 through 1978.

A Departmental survey was conducted with manufacturers from whom Solbro Sportswear, Incorporated received contract work. The survey revealed that manufacturers who decreased contracts with Solbro Sportswear in 1979 compared to 1978 experienced a decline in their sales to retailers in the same time period. A survey of retailers to which these manufacturers sell revealed that they increased the proportion of imports among their total blouse purchases. In addition, manufacturers representing a significant proportion of Solbro's sales in the first quarter of 1979 reduced purchases from Solbro and other domestic sources while increasing foreign contract work in the first quarter of 1980 compared to the first quarter of 1979.

In this case, therefore, the certifying officer has determined that

All workers of Solbro Sportswear, Incorporated, Toxey, Alabama who became totally or partially separated from employment on or after September 13, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7496; Visa Fashion, Inc.: Brooklyn, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Visa Fashions, Incorporated, Brooklyn, New York. The workers produced ladies' sportswear.

U.S. imports of women's, misses' and children's blouses and shirts, and slacks and shorts increased in 1979 when compared to the average level of imports in 1975–1978.

U.S. imports of women's, misses', and children's skirts increased in 1979 compared to 1978.

A Departmental survey was conducted of manufacturers which decreased contract work with Visa Fashions in 1979 compared to 1978. The survey revealed that, in aggregate, the manufacturers increased their use of foreign contractors for the production of ladies' sportswear and increased imports of ladies' sportswear in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that

All workers of Visa Fashions, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after February 4, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aformentioned cases during the week of June 2–6, 1980.

Signed at Washington, D.C., this 10th day of June 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–17922 Filed 6–12–80; 8:45 am]

BILLING CODE 4510–28–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 23, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 23, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of May 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Corporation General Mfg. Division	Dearborn, Mich		4/25/80	TA-W-7919	Administrative and support functions.

[FR Doc. 80-17911 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon reciept of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 23, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 23, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of May 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Coleman Products Company, Iron River Plant (company)	Iron River, Mich	4/29/80	4/22/80	TA-W-7, 920	Wiring assemblies.
Coleman Products Company (company)	Coleman, Wis	4/29/80	4/22/80	TA-W-7, 921	Wiring assemblies.
Evart Products Company, Lauman Road Assembly Plant (company)	Evart, Mich	4/29/80	4/22/80	TA-W-7, 922	Various plastic components.
Evart Products Company (company)	Evart, Mich	4/29/80	4/22/80	TA-W-7, 923	Various plastic components.
Predelivery Service Corporation (UAW)	LaMirada, Calif	4/29/80	4/24/80	TA-W-7, 924	New car predelivery service.
A.E. Nettleton Shoe Company (ACTWU)	Syracuse, N.Y	4/29/80	4/22/80	TA-W-7, 925	Shoes.
City of Parma (Police, Fire Service Dept) (workers)	Parma, Ohio	4/14/80	3/25/80	TA-W-7, 926	Public service.
DND Teletronics (workers)	Utica, N.Y	4/29/80	4/17/80	TA-W-7, 927	Key telephone equipment.
The General Tire & Rubber Company (workers)	Mt. Vernon, Ill	4/29/80	4/24/80	TA-W-7, 928	Automobile and truck tires.
Millbury Engineering Company (workers)	Millbury, Ohio	4/29/80	4/23/80	TA-W-7, 929	Tool and dyes.
Eastern Associated Coal Corporation, Keystone #2 & #3 Mines (UMWA)	Herndon, W. Va	4/21/80	4/15/80	TA-W-7, 930	Metallurgical coal.
Revere Sugar Corp. (International Longshoreman's Association)	Brooklyn, N.Y	4/28/80	4/21/80	TA-W-7, 931	Cane sugar—refined sugar.
Armstrong Rubber Company (company)	New Haven, Conn	4/28/80	4/16/80	TA-W-7,932	Corporate sales and management.
Armstrong Rubber Company, Textile Division (company)	Laurel Hille, N.C	4/28/80	4/16/80	TA-W-7,933	Processing of tire cord.
Armstrong Rubber Company, Arco Wheel, Inc. (company)	West Allis, Wis	4/28/80	4/16/80	TA-W-7,934	Tire rims for industrial and recreational equipment tires.
Armstrong Rubber Company, Industrial Products Division (company)	Clinton, Tenn	4/28/80	4/16/80	TA-W-7,935	Tires for industrial and reactional equipment.
General Motors Corp., Delco-Remy Division (IUE)	New Brunswick, N.J	4/29/80	4/22/80	TA-W-7,936	Batteries.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Boyd Lumber Corp., (Shake & Shingle Department) (workers).	Sedro Woolley, Wash	4/28/80	4/18/80	TA-W-7,937	Sawed shakes shingles.
Bendix Corporation (workers)	St. Joseph, Mich	4/29/80	4/23/80	TA-W-7,938	Disc brakes, master cylinders, wheel cylinders, many types of auto parts.
Stauffer Chemical Company (Bakery Confectionery & Tobacco Workers Union).	South Portland, Maine	4/23/80	4/17/80	TA-W-7,939	Seaweed used as a food filler, etc.
Lapeer Fabricators, Inc. (UAW)	Lapeer, Mich	4/29/80	4/18/80	TA-W-7,940	Plastic auto mouldings.
Machine-Rite Products (workers)	Lagrange, Ind	4/29/80	4/22/80	TA-W-7,941	Automotive and recreational vehicles.
Bridgman Casting Center (company)	Bridgman, Mich	4/29/80	4/23/80	TA-W-7,942	Grid iron castings.
Keystone Metal Moulding (company)	East Detroit, Mich	4/15/80	4/11/80	TA-W-7,943	Corporate headquarters and sales office.
All Products Company (company)	Farwell, Mich	4/28/80	4/22/80	TA-W-7,944	Auto engine oil pump pick-up screen assemblies.
E. F. Houghton Co. (USWA)	Detroit, Mich	4/29/80	4/23/80	TA-W-7,945	Blending of chemicals.
Britain Industries, Inc., New Britain Tool Division (IAM & AW).	New Britain, Conn	4/28/80	4/22/80	TA-W-7,946	Socket and flat wrenches and various assorted automotive handtools.
Balfour Industries (workers)	Detroit, Mich	4/29/80	4/24/80	TA-W-7,947	Automotive metal stamping.
C.A. Baltz (ILGWU)	Kingston, N.Y	4/29/80	4/23/80	TA-W-7,948	Lingerie.
Bishop & Company (company)	Weissport, Pa	4/29/80	4/25/80	TA-W-7,949	Ladies' tops and sportswear.
U.S. Steel Corp., Texas Works (USWA)	Baytown, Tex	4/10/80	4/3/80	TA-W-7,950	Butt-end welded steel pipe, also carbon steel plate.
MCR Fashions, Inc. (ILGWU)	Hoboken, N.J	4/29/80	4/2/80	TA-W-7,951	Ladies' coats.
Modern Coat Company (ILGWU)	Union City, N.J	4/29/80	4/14/80	TA-W-7,952	Ladies' Coats.
U.S. Steel Corp., Chemical Division (O.C.A.W.).	Swanton, Ohio	4/16/80	4/14/80	TA-W-7,953	Polyester resin.
E.T.M. Enterprises, Inc. (workers)	Grand Ledge, Mich	4/29/80	4/21/80	TA-W-7,954	Automobile roofs.
Carol Ann Apparel Corp. (ILGWU)	Hastings, Pa	4/29/80	4/24/80	TA-W-7,955	Sub-contractor of dresses, skirts, blouses and pants.
The Moore Co., Inc. (DALU)	Springfield, Mass	4/28/80	4/23/80	TA-W-7,956	Hand tools.
Everlock Detroit, Inc. (workers)	Mt. Clemens, Mich	4/29/80	4/21/80	TA-W-7,957	Fasteners for american built cars.
Willow Coat Corp. (ILGWU)	Hoboken, N.J	4/29/80	4/8/80	TA-W-7,958	Ladies' coats.
Harte & Company, Inc. (Oil, Chemical & Atomic Workers International Union).	Mountaintop, Pa	4/29/80	4/21/80	TA-W-7,959	Vinyl Sheeting Products.
C & H Sportswear (ILGWU)	Kingston, N.Y	4/29/80	4/23/80	TA-W-7,960	Ladies' sportswear and shower curtains.
C.L. Manufacturing (ILGWU)	Kingston, N.Y	4/29/80	4/23/80 TA-W-7,961		Contractor of ladies' sportswear.
Dayco-Waynesville (URW & Company)	Waynesville, N.C	4/29/80	4/23/80	TA-W-7,962	Automobile belts and hoses.
Dunbee, Combex, and Marx (United Toy Workers).	Glen Dale, W.Va	4/28/80	4/23/80	TA-W-7,963	Plastic toys.
National Standard Company (workers)	Niles, Mich	4/28/80	4/23/80	TA-W-7,964	Wire.
South Bay Coat Company (workers)	Fall River Mass	4/29/80	4/18/80	TA-W-7,965	All weather coats.
Southern Worsted Mills (workers)	Greenville, S.C	4/29/80	4/16/80	TA-W-7,966	Woolen articles.
Perri Sportswear (ILGWU)	Toughkeepsie, N.Y	4/29/80	4/23/80	TA-W-7,967	Rainwear.
Barry Steel Corp. (workers)	Detroit, Mich	4/28/80	4/21/80	TA-W-7,968	Steel for Chrysler, Ford and General Motors.
Louis Dreyfus Canada, Ltd (workers)	Baltimore, Md	4/28/80	4/25/80	TA-W-7,969	Export grain elevator.
Bethlehem Fabricators, Inc. (workers)	Bethlehem, Pa	4/28/80	4/24/80	TA-W-7,970	Racks, steel and other steel products.
J & J Cedar Products, Inc. (workers)	Elma, Wash	4/29/80	4/25/80	TA-W-7,971	Roofing materials.
Buckeye Group (workers)	Brookpark, Ohio	4/29/80	4/21/80	TA-W-7,972	Switching of trailers that the automobile engines were shipped in.
Virginia Oak Tannery, Inc. (workers)	Luray, Va	4/28/80	4/9/80	TA-W-7,973	Leather products.
ITT, Automotive Electrical Products Division (workers).	Brownsville, Tenn	4/15/80	4/11/80	TA-W-7,974	Wire harnesses.
ITT, Automotive Electrical Products Division (workers).	Fayette, Miss	4/15/80	4/11/80	TA-W-7,975	Wire harnesses.
ITT, Automotive Electrical Products Division (workers).	Selmer, Tenn	4/15/80	4/11/80	TA-W-7,976	Wire harnesses.
ITT, Automotive Electrical Products Division (workers).	Cairo, Ga	4/15/80	4/11/80	TA-W-7,977	Wire harnesses.
ITT, Automotive Electrical Products Division (workers).	Bainbridge, Ga	4/15/80	4/11/80	TA-W-7,978	Wire harnesses.
ITT, Automotive Electrical Products Division Plant #6 (workers).	Petoskey, Mich	4/15/80	4/11/80	TA-W-7,979	Terminal stampings.
ITT, Automotive Electrical Products Division Plant #1 (workers).	Petoskey, Mich	4/15/80	4/11/80	TA-W-7,979	Wire harnesses.
ITT, Automotive Electrical Products Division (workers).	Bellaire, Mich	4/15/80	4/11/80	TA-W-7,981	Wire harnesses.
ITT, Automotive Electrical Products Division (workers).	East Jordan, Mich	4/15/80	4/11/80	TA-W-7,982	Wire harnesses.
McMillan Shingle, Inc. (workers)	Grand Ronde, Oreg	4/8/80	4/ 2/80	TA-W-7,983	Red cedar shingles and red cedar shakes.
Scripto, Inc. (ICWU)	Doraville, Ga	4/8/80	4/2/80	TA-W-7,984	Writing instrument and disposable lighters.
Union Shake Co. (company)	Darrington, Wash	4/29/80	4/18/80	TA-W-7,985	Western red cedar shakes.
Commercial Carriers, Inc. (workers)	Oakland, Calif	4/29/80	4/17/80	TA-W-7,986	Transporting automobiles.
Donald Peckerman, Inc. (ILGWU)	Newark, N.J	4/29/80	4/18/80	TA-W-7,987	Lingerie.
Howard Martin Knitting Mills, Inc. (ILGWU)	Ridgefield, N.J	4/29/80	4/18/80	TA-W-7,988	Ladies' knit sweaters and sportswear.
Armex Corp. (company)	Troy, Mich	4/29/80	4/24/80	TA-W-7,989	Various auto parts.
Condamatic Co., Inc. (company)	Warren, Mich	4/29/80	4/24/80	TA-W-7,990	Various auto parts.
Rainbow Girl Coat Company (workers)	Springfield, Mass	4/4/80	3/6/80	TA-W-7,991	Girls' and women's outercoats.
Associated Transports, Inc. (IAM & AW)	Hazelwood, Mo	4/29/80	4/23/80	TA-W-7,992	Maintenance of transportation fleet of Ford and Mercury vehicles.
Complete Auto Transit, Inc	St. Louis, Mo	4/29/80	4/23/80	TA-W-7,993	Maintenance of transportation fleet of General Motors vehicles.
Jim Causley, Inc. (workers)	Detroit, Mich	4/29/80	4/22/80	TA-W-7,994	Selling and servicing of automobiles.
Dawn Fashions Leather Company (workers)	New York, N.Y	4/28/80	4/24/80	TA-W-7,995	Ladies' sportswear (leather and suede).
Metex Automotive Products Corp. (company)	Edison, N.J	4/29/80	4/21/80	TA-W-7,996	Automotive for catalytic converters.

[FR Doc. 80-17912 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absoute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 23, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 23, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 9th day of June 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Creative Services Department, Chevrolet Motor Division (Sign Pictorial Display Union).	Detroit, Mich	5/20/80	5/15/80	TA-W-8,581	Truck identification, displays and advertising for various products produced by Chevrolet Motor Division.
Dresser Industry, Transportation Equipment Division (USWA).	Depew, N.Y	5/20/80	5/14/80	TA-W-8,582	Parts under in the making or remaking of railroad cars.
Dixie Yarn, Candlewick Div. (workers)	Roanoke, Ala	5/20/80	5/14/80	TA-W-8,583	Carpet Yarns.
Keeler Corporation (workers)	Grand Rapids, Mich	5/20/80	5/15/80	TA-W-8,584	Automotive parts for American made cars.
Keeler Brass Co., Kentwood Plant (workers)	Kentwood, Mich	5/20/80	5/15/80	TA-W-8,585	Automotive parts for American made cars.
Keeler Brass Co., Stevens Street Plant (workers).	Grand Rapids, Mich	5/20/80	5/15/80	TA-W-8,586	Automotive parts for American made cars.
Spun Steel Inc. (company)	Corinth, Miss	5/20/80	5/14/80	TA-W-8,587	Automotive pulleys.
Walker Mfg. Co. (UAW)	Grass Lake, Mich	5/20/80	5/15/80	TA-W-8,588	Mufflers and tailpipes.
Walker Mfg. Co. (UAW)	Jackson, Mich	5/20/80	5/15/80	TA-W-8,589	Mufflers and tailpipes.
Wasser & Fluhrer, Inc. (Shingle Weavers Union).	Kalama, Wash	5/20/80	5/14/80	TA-W-8,590	Red cedar shingles, shakes and siding.
C. Cowles & Company (workers)	New Haven, Conn	5/20/80	5/15/80	TA-W-8,591	Automotive parts.
DSB, Inc. (workers)	Brockton, Mass	5/20/80	5/19/80	TA-W-8,592	Women's sweaters, knit dresses and women's sportswear.
Collard, Inc. (UAW)	Brighton, Mich	5/20/80	5/15/80	TA-W-8,593	Rubber coated metal parts.
Production Stamping Inc. (workers)	Mt. Clemens, Mich	5/20/80	5/12/80	TA-W-8,594	Hub caps, bumper braces, arm rests and automotive stampings.
Detail Production Co. (workers)	Ferndale, Mich	5/23/80	5/14/80	TA-W-8,595	Auto gears, spline 4-wheel drive hubs.
Houdaille Industries, Inc., Hydraulics Div. (United Auto Workers).	Buffalo, N.Y	5/23/80	5/21/80	TA-W-8,596	Dampers for diesel engines.
Chronar Corp. (workers)	Princeton, N.J	5/23/80	5/20/80	TA-W-8,597	Electronic components and modules.
BASF Wyandotte Corp. (OCAW)	Wyandotte, Mich	5/23/80	5/5/80	TA-W-8,598	Urethane polyols, chlorine, brine, lime and propylene oxide.
A.P. Parts Company, Manufacturing Div. (UAW).	Toledo, Ohio	5/22/80	5/13/80	TA-W-8,599	Exhaust systems—tail pipes, mufflers, exhaust pipes.
Gould, Inc. (M.E.S.A.)	Napoleon, Ohio	5/22/80	5/12/80	TA-W-8,600	Rubber to metal suspension—steering bushings.
Gould, Inc., Foundry Products Div., St. Louis Plant (Teamsters).	St. Louis, Mo	5/22/80	5/19/80	TA-W-8,601	Brakes for autos.
Active Tools & Mfg., Inc. (UAW)	Roseville, Mich	5/22/80	5/19/80	TA-W-8,602	Dies and stamping components.
Acushnet Co., Rubber Division (workers)	New Bedford, Mass	5/22/80	5/14/80	TA-W-8,603	Rubber products.
O.L. Anderson Co. (UAW)	Detroit, Mich	5/22/80	5/30/80	TA-W-8,604	Fuel tanks.
Abex, Inc., Winchester Div. (workers)	Winchester, Va	5/22/80	5/12/80	TA-W-8,605	Friction materials for brakes.
Cadillac Malleable Iron Company, Inc. (workers).	Cadillac, Mich	5/20/80	5/16/80	TA-W-8,606	Iron castings for American made autos.
Fitz Simons Mfg. Co., Big Rapids Plant, Tube Division (Big Rapids Tube Union).	Big Rapids, Mich	5/20/80	5/14/80	TA-W-8,607	Gas filler tubes, shifting arm linkage.
General Motors Corp., Fisher Body Division, Central Engineering (UAW).	Warren, Mich	5/20/80	5/16/80	TA-W-8,608	Pre-model design.
General Motors Corp., Fisher Body Division (UAW).	Mansfield, Ohio	5/20/80	5/16/80	TA-W-8,609	Stampings.
General Motors Corp., AC Sparkplug Division (UAW).	Milwaukee, Wis	5/20/80	5/16/80	TA-W-8,610	Spark plugs.
General Motors Corp., Rochester Products Division (UAW).	Rochester, N.Y.	5/20/80	5/16/80	TA-W-8,611	Carburetors.
General Motors Corp., Delco Electronics Division (UAW).	Indianapolis, Ind	5/20/80	5/16/80	TA-W-8,612	Radios and electronic components.
General Motors Corp., General Motors Assembly Division (UAW).	Fairfax, Kans	5/20/80	5/16/80	TA-W-8,613	Standard and mid-size cars.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Delco-Remy Division (UAW).	Meridian, Miss	5/20/80	5/14/80	TA-W-8,614	Starting motors.
Eastern Associated Coal Corp., Keystone #4 Mine (UMWA).	Sophia, W. Va.	5/21/80	5/19/80	TA-W-8,615	Metallurgical coal.
Friendly Manufacturing Company (workers)	Montesano, Wash	5/12/80	5/2/80	TA-W-8,616	Shakes.
Kelsey Hayes, Kingsway Plant (workers)	Fremont, Ohio	5/23/80	5/15/80	TA-W-8,617	Brake rotors for cars and trucks.
Dana Corporation, Dana Camshaft Plant #7 (UAW).	Richmond, Ind	5/20/80	5/9/80	TA-W-8,618	Valve guides.
Dana Corporation, Dana Ring Plant, P.C. Plant #5 (UAW).	Richmond, Ind	5/20/80	5/9/80	TA-W-8,619	Piston rings for cars and heavy equipment.
New Castle Foundry, Inc. (workers)	New Castle, Ind	5/22/80	4/26/80	TA-W-8,620	Water pump parts, auto starters.
Modern Engineering Company (workers)	Troy, Mich	5/22/80	5/19/80	TA-W-8,621	Advance design drawings and finished drawings for production.
Mega City Warehousing Center, Inc. (Teamsters).	Dayton, Ohio	5/22/80	5/5/80	TA-W-8,622	Warehouses products for Chrysler Corp.
Gulf & Western Mfg. Co., Morse Cutting Tools Div. (workers).	New Bedford, Mass	5/22/80	5/15/80	TA-W-8,623	Rotary metal cutting tools.
Dominion Auto Accessories, Inc. (company)	Sevierville, Tenn	5/30/80	5/28/80	TA-W-8,624	Truck and van mirrors for G.M. vehicles.
Firestone Synthetic Fibers Company (URW)	Hopewell, Va	5/22/80	5/14/80	TA-W-8,625	Polyester and nylon tire cords.
Olsonite Corp. (UAW)	Detroit, Mich	5/22/80	5/5/80	TA-W-8,626	Plastic components for autos.
Garland Knitting Mills of Georgia, Inc. (workers).	Warrenton, Ga	5/22/80	5/16/80	TA-W-8,627	Ladies' sportswear.
Fran Fashions (company)	Lehighton, Pa	5/26/80	5/20/80	TA-W-8,628	Ladies' dresses, blazers and sportswear.
Continental Forest Industries (company)	Melvindale, Mich	5/27/80	5/23/80	TA-W-8,629	Corrugated boxes for auto industry.
Lighthouse Footwear, Inc. (workers)	Skowhegan, Maine	2/12/80	2/8/80	TA-W-8,630	Men's and women's boots, clogs, and oxfords—shoes, boot shoes.
United Technologies Corp., Automotive Products Division (workers).	Dearborn, Mich	5/7/80	4/30/80	TA-W-8,631	Electro-mechanical components for autos.
Aetna Industries, Inc., Heavy Stamping Division (company).	Warren, Mich	5/23/80	5/23/80	TA-W-8,632	Automotive metal stampings.
Aetna Industries, Inc., Tool and Die Div. (company).	Center Line, Mich	5/23/80	5/23/80	TA-W-8,633	Automotive metal stampings.
Aetna Industries, Inc., Tool & Die Div. (company).	Warren, Mich	5/23/80	5/23/80	TA-W-8,634	Automotive metal stampings.
Aetna Industries, Inc., Metal Assemblies Div. (company).	Center Line, Mich	5/23/80	5/23/80	TA-W-8,635	Automotive metal stampings.
Aetna Industries, Inc., Genesee Stamping Div. (company).	Owosso, Mich	5/23/80	5/23/80	TA-W-8,636	Automotive metal stampings.
Aetna Industries, Inc., P.J. Div. (company)	Center Line, Mich	5/23/80	5/23/80	TA-W-8,637	Automotive metal stampings.
Aetna Industries, Inc., Aetna Industries Div. (company).	Center Line, Mich	5/23/80	5/23/80	TA-W-8,638	Automotive metal stampings.
General Tire & Rubber Company (company)	Mayfield, Ky	5/12/80	5/6/80	TA-W-8,639	Bias light truck tires, bias heavy truck tires, radial and bias auto tires.
Gaetano Handbag Corp. (workers)	New York, N.Y	5/20/80	5/15/80	TA-W-8,640	Women's handbags.
Jaclyn, Inc. (International Leather Goods, Plastic & Novelty Workers' Union).	West New York, N.J	5/22/80	5/13/80	TA-W-8,641	Ladies' handbags.
Herd Seeder Company (workers)	Logansport, Ind	5/22/80	5/13/80	TA-W-8,642	Grain seeders.
Harrisburg Children's Dress Company (workers).	Harrisburg, Pa	3/7/80	2/8/80	TA-W-8,643	Children's dresses and sportswear.
Triple A. Tube, Inc. (workers)	Jonesville, Mich	5/22/80	5/19/80	TA-W-8,644	Fabricated automotive tubular products.
Trevor Steel Co. (workers)	Roseville, Mich	5/22/80	5/16/80	TA-W-8,645	Process steel.
Shuron—Textron, Inc. (IUE)	Rochester, N.Y	5/22/80	5/19/80	TA-W-8,646	Ophthalmic frames—mental and plastic.
Schlegel Corp., Rochester Division (ACTWU)	Rochester, N.Y	5/22/80	5/15/80	TA-W-8,647	Automotive interior trim and automotive door seals.
Morton Industries (ILGWU)	Bloomfield, N.J	3/21/80	2/28/80	TA-W-8,648	Contractor of ladies' sportswear.
Retool Machine Co. (workers)	Detroit, Mich	5/22/80	5/20/80	TA-W-8,649	Cold heading tools and dies.
Dube J.D.R. Knitting Mills Corp. (company)	Brooklyn, N.Y	3/25/80	3/5/80	TA-W-8,650	Fabric for sweaters.
Kisiel Die Casting Works, Inc. (UAW)	Batavia, N.Y	5/22/80	5/16/80	TA-W-8,651	Heater and air conditioner parts for automobiles.
M.N.P. Corp., Wood, Risdon Div. (workers)	Utica, Mich	5/22/80	5/14/80	TA-W-8,652	Steel wore for fasteners, fasteners and washers.
M.N.P. Corp., Singleton Highland Bolt & Nut Division (workers).	Utica, Mich	5/22/80	5/14/80	TA-W-8,653	Steel wire for fasteners, fasteners, washers.
St. Mary's Carbon Co., Inc. (IUE)	St. Marys, Pa	5/22/80	5/5/80	TA-W-8,654	Replacement automotive and starter brushes.
Theo Manufacturing Company (ILGWU)	Long Island City, N.Y	5/27/80	5/20/80	TA-W-8,655	Ladies' blouses, sportswear and dresses.
Delight Sportswear, Inc. (ILGWU)	New York, N.Y	5/27/80	5/22/80	TA-W-8,656	Sportswear; skirts, pants and jackets.
Phoenix Steel Corporation (workers)	Claymont, Del	5/27/80	5/21/80	TA-W-8,657	Custom steel, steel pipe and tube, plate products.
Chicago Bridge & Iron (C.B.I.) Nuclear Co. (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers & Helpers).	Memphis, Tenn	5/27/80	5/23/80	TA-W-8,658	Nuclear reactor vessels; heavy-walled fabricated plates.
General Hose Product, Inc. (workers)	Fairfield, N.J	5/27/80	5/23/80	TA-W-8,659	Supplier of original equipment to GM and Ford. Air conditioning lines for all makes of autos.
Goodyear Tire & Rubber Company, Proving Grounds (workers).	San Angelo, Tex	5/27/80	5/23/80	TA-W-8,660	Tests tires for Tire Development Department.
Gibraltar Steel Corporation (workers)	Buffalo, N.Y	5/27/80	5/21/80	TA-W-8,661	Cold rolled strip steel products, and steel stripping for hot mills.
Ring, Screw Works Co., Fenton Heading Division (workers).	Fenton, Mich	5/22/80	5/15/80	TA-W-8,662	Automotive bolts, fasteners, large screws.
Grand Machining Co. (IUE)	Detroit, Mich	5/22/80	5/13/80	TA-W-8,663	Small machined parts, nuts.
True Temper Corp. (USWA)	Dunkirk, N.Y	5/22/80	5/20/80	TA-W-8,664	Shovels, spades, ice choppers.
Wexford Sand Co. (workers)	Harietta, Mich	5/22/80	5/5/80	TA-W-8,665	Washed and dried foundry sand.
USM Corp., Warren Div. (company)	Mt. Clemens, Mich	5/22/80	5/15/80	TA-W-8,666	Fasteners, clips, studs.
Indian Head Co., Detroit Gasket (workers)	Fremont, Ohio	5/22/80	5/19/80	TA-W-8,667	Vinyl, cloth, wire.
Union Carbide Corp., Home & Automotive Prod. Division (OCAW).	Wayne, N.J	5/22/80	5/19/80	TA-W-8,668	Polyethlene bags.
Brunswick Corp., Union Tubular Products Div. (IUE).	Torrington, Conn	5/22/80	5/20/80	TA-W-8,669	Metal tubular golf shafts.
Ownes-Illinois, Inc. (workers)	Bridgeton, N.J	5/22/80	5/14/80	TA-W-8,670	Food and beverage containers.
Keystone Carbon Co. (IUE)	St. Marys, Pa	5/22/80	5/5/80	TA-W-8,671	Thermal components.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Trim Parts, Inc. (company)	Marshall, Mich	6/3/80	5/27/80	TA-W-8,672	Assemblies for GMC, automotive interior trim.
Walker Manufacturing Company (company)	Seward, NB	6/3/80	5/22/80	TA-W-8,673	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Racine, WI	6/3/80	5/22/80	TA-W-8,674	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Newark, Ohio	6/3/80	5/22/80	TA-W-8,675	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Jonesboro, AR	6/3/80	5/22/80	TA-W-8,676	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Jackson, MI	6/3/80	5/22/80	TA-W-8,677	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Harrisonburg, VA	6/3/80	5/22/80	TA-W-8,678	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Greenville, Tex	6/3/80	5/22/80	TA-W-8,679	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Grass Lake, MI	6/3/80	5/22/80	TA-W-8,680	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Batavia, IL	6/3/80	5/22/80	TA-W-8,681	Exhaust systems, hydraulic jacks, and catalytic converter.
Walker Manufacturing Company (company)	Arden N.C	6/3/80	5/22/80	TA-W-8,682	Exhaust systems, hydraulic jacks, and catalytic converters.
Walker Manufacturing Company (company)	Aberdeen, MS	6/3/80	5/22/80	TA-W-8,683	Exhaust systems, hydraulic jacks and catalytic converters.
Berg-Toseth, Inc. (company)	St. Paul, MN	6/2/80	5/29/80	TA-W-8,684	Pressure sensitive markings for autos.
Webster Engineering Company (company)	Roseville, MI	6/2/80	5/30/80	TA-W-8,685	Proto-type parts and fabrications for auto industry tools and dies for auto industry.
TRW, Inc., TRW Carr Division (workers)	Knoxville, Tenn	5/22/80	5/12/80	TA-W-8,686	Electrical relays.
Western Cold Drawn Steel Co. (USWA)	Elyria, Ohio	5/22/80	5/19/80	TA-W-8,695	Cold drawn carbon and alloy steel bars.
Vesely Company (company)	Lapeer, MI	6/3/80	5/22/80	TA-W-8,687	Recreation travel trailers.
General Motors Corp., Chevrolet Motor Div., Creative Services Dept. (United Brotherhood of Carpenters & Joiners of America).	Detriot, Mich	5/20/80	5/15/80	TA-W-8,688	Advertising displays for Chevrolet cars and trucks.
J.C. Coats (company)	Jersey City, N.J	6/3/80	5/21/80	TA-W-8,689	Coats.
Brewster Finishing Company (company)	Paterson, N.J	6/3/80	5/21/80	TA-W-8,690	Dyeing and finishing.
J.C. Leather & Suedes, Inc. (company)	Jersey City, N.J	6/3/80	5/21/80	TA-W-8,691	Imitation fur coats.
Grand Haven Stamped Products Co. (company).	Grand Haven, MI	6/3/80	5/28/80	TA-W-8,692	Shifter assemblies and brake pedals for all major U.S. automotive manufacturers.
Goddeyne Manufacturing Company, Inc. (company).	Bay City, MI	6/3/80	5/22/80	TA-W-8,693	Electro plating.
Mastercraft Leather Mfg. Co., Inc. (company).	Troy, MI	6/3/80	5/21/80	TA-W-8,694	Leather seat cover sets for auto industry.

[FR Doc. 80-17913 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-28-M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period June 2–6, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7454; Banjo Branch Coal Co., Inc.; Richlands, Va.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Banjo Branch Coal Company, Incorporated, Richlands, Virginia. Workers at the mine produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 (CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant relative to domestic production from 1975 through 1979. U.S. imports of coke decreased absolutely and relative to domestic production from 1978 to 1979 and in the first two months of 1980 compared to the like period of 1979.

In this case, therefore, the certifying officer has determined that all workers of Banjo Branch Coal Company, Incorporated, Richlands, Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7524; Cold Heading Co., Detroit, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Cold Heading Company, Detroit, Michigan. The workers produced specialty bolts.

The investigation revealed that criterion (3) has not been met.

The petition alleges that increased imports of automobiles have caused decreased company sales of specialty bolts to U.S. automobile manufacturers.

However, automobiles cannot be considered to be like or directly competitive with specialty bolts. Imports of specialty bolts must be considered in determining import injury to workers producing specialty bolts.

U.S. imports of specialty industrial fasteners, including specialty bolts, were negligible during 1978 and 1979. Total U.S. imports of bolts and large screws decreased absolutely and relative to domestic production in 1979 compared to 1978.

A Department survey revealed that none of the surveyed customers decreased purchases from Cold Heading Company and increased purchases of imported specialty fasteners in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that all workers of Cold Heading Company, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7796, 7796A, 7796B; Eastern Associated Coal Corp., Herndon, W. Va.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Keystone #2 and #3 Mines of Eastern Associated Coal Corporation, Herndon, West Virginia. The investigation revealed that there is a preparation plant attached to the Keystone #2 and #3 Mines. Workers at Keystone #2 and #3 Mines and Preparation Plant of Eastern Associated Coal Corporation produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallugical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant relative to domestic production from 1975 through 1979.

U.S. imports of coke decreased absolutely and relative to domestic production in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979.

In a previous determination issued on March 9, 1979 (TA–W–4587, 4588, 4587a), workers at the Keystone #2 and #3 Mines and Preparation Plant were denied eligibility to apply for trade adjustment assistance on the basis that sales or production did not decrease. In a second determination issued on September 4, 1979 (TA–W–5724–5), the same group of workers were denied eligibility on the basis that imports of coal and coke did not contribute importantly to separations at the previously mentioned mines.

In this case, therefore, the certifying officer has determined that all workers of Eastern Associated Coal Corporation, Keystone #2 and #3 Mines and Preparation Plant, Herndon, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7422; Frank Saltz & Sons, Inc., New York, N.Y.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Frank Saltz and Sons, Incorporated, New York, New York. Workers at the plant produce men's suits and sportcoats.

The investigation revealed that criterion 3 has not been met.

U.S. imports of men's and boys' tailored suits decreased absolutely in 1979 compared with 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats decreased absolutely in 1979 compared with 1978 and in the first quarter of 1980 compared with the first quarter of 1979.

A Department survey of the manufacturers that accounted for the preponderance of the subject firm's production revealed that none of the manufacturers used the services of foreign contractors or purchased imported men's suits and sportcoats. Reduced orders with Frank Saltz and Sons in first quarter 1980 compared with first quarter 1979 (orders increased in 1979 compared with 1978) were accompanied by increased orders with other domestic sources. In addition, the manufacturer accounting for the majority of the subject firm's production indicated that sales to their customers (retail outlets) increased in 1979 compared with 1978 and in the first quarter of 1980 compared with the first quarter of 1979.

In this case, therefore, the certifying officer has determined that all workers at the Frank Saltz and Sons, Incorporated, New York, New York, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7017 and 7058; General Motors Corporation, General Motors Parts Division, Flint, Mich. and AC-Delco Division, Detroit, Mich.

The investigations were initiated on February 11, 980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.) on behalf of workers at General Motors Parts Division, Flint, Michigan and AC-Delco Division, Detroit, Michigan of General Motors Corporation. Workers in both divisions distribute service parts.

The investigation revealed that criterion (3) has not been met.

Recent Department certifications of workers at eighteen final assembly plants of General Motors Corporation were based on a finding of import injury which was limited to certain lines of cars, trucks, and other vehicles produced during model years (MY) 1979 and 1980. Workers at fifty-one GM component plants were also found to be adversely affected by imports after it was determined that those facilities were substantially integrated into the production of GM's trade-impacted car and truck lines.

The General Motorts Parts Division and the AC-Delco Division distribute replacement parts for cars, trucks and other vehicles sold by GM. None of the parts sold by these two divisions were used as original equipment on trade-impacted vehicles. A substantial proportion of the parts sold by those divisions are ultimately used to service either vehicles assembled prior to MY 1979 or those which have not been subject to import injury. Although many of the parts are produced at General Motors plants, production for the replacement market did not account for a significant proportion of the total operation of the fifty-one certified component plants. Consequently, a direct and significant connection cannot be established between layoffs in the two divisions and production declines at certified GM assembly plants or component plants.

In this case, therefore, the certifying officer has determined that all workers of General Motors Parts Division, Flint, Michigan (TA–W–7017) and AC-Delco Division, Detroit, Michigan (TA–W–7058) of General Motors Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7519; Hirsch Tyler Co., Philadelphia, Pa.

The investigation was initiated on March 31, 1980 in response to a petition

which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Hirsch Tyler Company, Philadelphia, Pennsylvania. The workers produce men's and women's military uniforms.

The investigation revealed that criterion (3) has not been met.

Hirsch Tyler Company is primarily engaged in the production of U.S. military uniforms and foreign military uniforms produced under contract offered by the U.S. goverment.

There are no imports of United States' military uniforms due to the "Buy American Act" which requires that in the procurement of supplies and services for the U.S. Armed Services and other public usages only domestic sources and products shall be used and acquired. Furthermore, according to industry sources, civilian military type uniforms and career apparel are not generally imported due to the time factor involved in the delivery and to the customized tailoring necessary for these types of uniforms.

In this case, therefore, the certifying officer has determined that all workers of Hirsch Tyler Company, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7489; Kasle Steel Corp., Dearborn, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousement and Helpers of America, local 247 on behalf of workers at Kasle Steel Corporation in Dearborn, Michigan. Workers at the Kasle Steel plant produce hot and cold rolled carbon steel and aluminum sheet.

The investigation revealed that criterion (3) has not been met.

Imports of hot and cold rolled carbon steel sheet declined both absolutely and relative to domestic shipments in 1978 compared to 1977 and continued to decline in 1979 compared to 1978.

Imports of aluminum sheet declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

The petition alleges that increased imports of automobiles contributed importantly to the decline in sales and production at Kasle Steel Corporation. Imported automobiles cannot be considered like or directly competitive with steel or aluminum sheet. Imports of steel and aluminum sheet must be considered in determining import injury to workers processing steel and aluminum sheet at Kasle Steel Corporation.

In this case, therefore, the certifying officer has determined that all workers of Kasle Steel Corporation, Dearborn, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7506; Mary Roberts, Inc., New York, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Mary Roberts, Incorporated, New York, New York. The workers produced ladies' dresses.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's misses' and children's dresses declined absolutely in 1979 compared to 1978.

A Departmental survey was conducted with a sample of the retail customers of Mary Roberts, Incorporated who decreased purchases from Mary Roberts in 1979 compared to 1978 and in the first quarter of 1980 compared to the first quarter of 1979. The survey revealed that the respondents to the survey did not increase their imports of ladies' dresses in the first quarter of 1980 compared to the first quarter of 1979. These respondents represented a substantial portion of Mary Roberts sales decline in that same period. Further, the ratio of imported ladies' dresses compared to domestically purchased dresses used by these respondents was less than one percent in 1978, 1979 and the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of Mary Roberts, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7536; Nuturn Corp., Paulding, Ohio

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at the Nuturn Corporation, Paulding, Ohio. Workers at the Paulding, Ohio plant produce friction products such as clutch plates and brake linings.

The investigation revealed that criterion (3) has not been met.

The Nuturn, Ohio plant permanently closed at the end of March 1980. All production activities performed at the Nuturn plant were transferred to other Nuturn facilities in Smithville, Tennessee and New Castle, Indiana. The transfer was made for reasons relating to efficiency rather than to lost business.

The investigation disclosed that Nuturn decided to close the Paulding plant because of obsolete equipment at the plant. The New Castle plant was purchased in Mid-1979, and, after retooling, began significant production early in 1980.

Sales and production increased at Paulding in 1979 compared to 1978 and in the first quarter of 1980 when compared to the first quarter of 1979. Company-wide sales also increased in 1979 compared to 1978 and in the first quarter of 1980 compared to the same quarter in 1979.

The petition alleges that Nuturn Corporation imports of various brake and clutch parts contributed importantly to the decision to close the Paulding plant. The investigation revealed that the imported parts are not like or directly competitive with those produced at the Paulding plant, with the exception of truck lining parts (including blocks). Production of truck lining parts at the Paulding plant increased from 1978 to 1979, and in the first quarter of 1980 compared to the first quarter of 1979. Nuturn's imports of truck lining parts accounted for an insignificant portion of the company's sales of that product, and declined in the first quarter of 1980 compared to the same quarter of the previous year.

In this case, therefore, the certifying officer has determined that all workers of the Nuturn Corporation, Paulding, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7588; Peabody Coal Co.; Tebo Surface Mine; Calhoun, Mo.

The investigation was initiated on April 14, 1980 in response to a petition which was filed on behalf of workers at the Peabody Coal Company, Tebo Surface Mine, Calhoun, Missouri. Workers at the mine produce steam coal.

The investigation revealed that criterion (3) has not been met.

U.S. imports of coal decreased absolutely and relative to domestic production from 1978 to 1979. Imports of steam coal were insignificant relative to demestic production from 1975 through 1979.

In this case, therefore, the certifying officer has determined that all workers of the Peabody Coal Company, Tebo Surface Mine, Calhoun, Missouri are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–6838; Precision Components, Inc., Warren, Mich.

The investigation was initiated on January 22, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at Precision Components, Incorporated, Warren, Michigan. Workers at the plant produce automotive stamping products.

The investigation revealed that criterion (3) has not been met.

It is alleged on the petition that increased imports of automobiles have caused decreased demand for the stampings manufactured by Precision Components. Imported automobiles cannot be considered like or directly competitive with the stampings made at Precision Components. Imports of automotive stampings must be considered in determining import injury to workers producing stampings at Precision Components.

Imports of automotive door hinges, automotive hood and door latches and spring seats are neligible. Industry sources attributed the decline in sales, production and employment at Precision Components to the decline in new car production.

In this case, therefore, the certifying officer has determined that all workers of Precision Components, Incorporated, Warren, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7616; Reitz Coal Co.; Hamilton, Mine No. 24; Hooversville, Pa;

The investigation was initiated on April 14, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Reitz Coal Company, Camp Hamilton Mine #24, Hooversville, Pennsylvania. Workers at the mine produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant relative to domestic production from 1975 through 1979. Imports of coke decreased absolutely and relative to domestic production in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979.

In this case therefore, the certifying officer has determined that all workers of Reitz Coal Company, Camp Hamilton Mine #24, Hooversville, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aformentioned cases during the week of June 2–6th, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–17921 Filed 6–12–80; 8:45 am]

BILLING CODE 4510–28–M

Pension and Welfare Benefit Programs

[Application No. D–1653]

Proposed Exemption for Certain Transactions Involving the Constellation Employees' Retirement Plan and Trust Located in New York, N.Y.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed purchase by the Constellation Employees' Retirement Plan (the Plan) of polished diamonds from the Constellation Diamond Corporation (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the trustees, participants and beneficiaries of the Plan, the Employer, and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 25, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1653. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Stander, of the Department of Labor, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan pursuant to section 408(a) of the Act and Section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with seventeen participants. As of December 31, 1978, the Plan had a net worth of approximately $456,000. The trustees of the Plan are Alexander Konigsberg, Seymour Konigsberg (the Konigsbergs), and David Davidoff. The Konigsbergs are the officers and sole owners of the Employer, and Mr. Davidoff is counsel to the Employer.

2. The Konigsbergs have been in the business of buying and selling diamonds for approximately forty years. The Employer has been in existence since 1959. The Konigsbergs represent that polished diamonds represent a secure investment that are expected to greatly appreciate in value.

3. The Plan proposes to purchase polished diamonds (Diamonds) from the Employer. The Diamonds will be purchased from the Employer at the Employer's cost, which is defined as the purchase price of the Diamonds including import duties, if any, plus incidental expenses such as postage, handling, polishing and cutting costs.

The purchase of the Diamonds from the Employer at the Employer's cost will be at a price substantially less than if the Plan sought to acquire diamonds on the retail market, and will often be less than if acquired at wholesale prices. This is due to the Employer's experience in the diamond trade, and its ability to purchase diamonds at or less than wholesale prices. It is represented that the Plan, not being a dealer in the diamond trade, could only make sporadic purchases of diamonds at wholesale prices. The purchase price of diamonds at retail is substantially higher than the purchase price of diamonds at wholesale due to the high markup prevalent in the diamond trade.

4. The Plan will purchase only diamonds that are certified by the Gemological Institute of America. The purchases will be solely for investment purposes and will not be traded. The Plan's total investment in the Diamonds will not exceed 25% of the Plan's total assets. The Plan will not incur any fees or commission expense with respect to the purchases.

5. Mr. Joseph B. Spielman (Spielman), an officer/director of the Diamond Club, 30 West 47th Street, New York, New York, and completely independent of the Employer will be appointed as a fiduciary of the Plan with respect to the purchases. Spielman will monitor each transaction between the Plan and the Employer, and will be able to veto any transaction involving the investment of the Plan's assets in the Diamonds. The Diamonds will be maintained in a vault separate from the inventory of the Employer. Spielman and anyone of the other trustees of the Plan will have a joint right of entry in the vault.

6. The Diamonds will be appraised by Spielman or another independent appraiser at the end of each Plan year, and the resulting valuation will be reflected in the Plan's books of account. A certified audit by the Plan's outside auditors will be made at the end of each Plan year to ensure that not more than 25% of the Plan's total assets are invested in the Diamonds.

7. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because:

(a) the Diamonds represent a secure investment which have an excellent potential for appreciation;

(b) the Diamonds will be purchased at the Employer's cost which is a price substantially less than if the Plan sought to acquire diamonds at retail prices, and often less than if acquired at wholesale prices;

(c) not more than 25% of the Plan's assets will be invested in the Diamonds;

(d) an individual with knowledge of the diamond market and independent of the Employer (Spielman) will maintain fiduciary responsibility with respect to the Diamonds;

(e) the Diamonds will be maintained separately from the inventory of the Employer and will be accounted for each year by independent, qualified auditors; and

(f) the trustees of the Plan have determined that the proposed investments are in the best interests of the Plan.

Notice of Interested Persons

Notice will be provided to all participants and beneficiaries of the Plan by providing them a copy of this Notice of Proposed Exemption by hand delivery on or before June 23, 1980. Additionally, a copy of this notice shall be posted in a conspicuous place at the Employer's place of business.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the purchase by the Plan of polished diamonds from the Employer as described above, provided that the prices paid by the Plan for the Diamonds are at the Employer's cost.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 6th day of June, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–17965 Filed 6–12–80; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Independent Area Task Force Subgroup on Ocean Operations and Services; Meeting

Pursuant to Section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Independent Area Task Force Subgroup on Ocean Operations and Services of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Tuesday and Wednesday, June 17–18, 1980. The Committee will meet in Room B–100, Page Building Number 1, 2001 Wisconsin Avenue, NW., Washington, D.C. The Tuesday session will convene at 9:00 a.m., and Wednesday's at 8:00 a.m. Both will be open to the public. The Monday session will adjourn at 5:00 p.m., and the session on Tuesday will adjourn at 3:00 p.m.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established an Independent Area Task Force (IATF) for NACOA. The IATF, with its subgroups, will be responsible for the preparation of preliminary recommendations in the area of marine transportation, energy, ocean operations and services, waste management and pollution, fisheries, and ocean minerals.

This initial meeting of the IATF Subgroup on Ocean Operations and Services will address the following topics:

1. Scope of subgroup's study.
2. Development of work plan.
3. Assignment of individual tasks and areas of responsibility.
4. Schedule of future meetings, activities, and milestones.

Administrative delays in charter approval and the importance of scheduling this meeting prior to the regular NACOA meeting are the reasons for the short public notice. Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson, of the Subgroup on Ocean Operations and Services, Dr. Robert M. White, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Carl A. Moritz, Staff Director for the Operations and Services Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653–7818.

Dated: June 11, 1980.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80–18062 Filed 6–12–80; 8:45 am]

BILLING CODE 3510–12–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 80–50]

Notice of Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to Virginia Research Institute, Inc., of Arlington, Virginia, of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 4,118,014 for "An Improved Vehicular Impact Absorption System" issued October 3, 1978, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 30 days of the date of this Notice, the Chairman, Inventions and Contributions Board, NASA, Washington, DC 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: June 6, 1980.

S. Neil Hosenball,

General Counsel.

[FR Doc. 80–17830 Filed 6–12–80; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Panel (Dance Touring Program and Long Term Engagements); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Panel (Dance Touring Program & Long Term Engagements) to the National Council on the Arts will be held July 16, 1980 from 9:00 a.m.–7:00 p.m.; July 17, 1980 from 9:00 a.m.–7:00 p.m.; and July 18, 1980 from 9:00 a.m.–7:00 p.m., in Room 1422, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 30, 1980.

[FR Doc. 80–17875 Filed 6–12–80; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on June 30, 1980 at the Best Western Airport Park Hotel, 600 Avenue of Champions, Inglewood, CA. Notice of this meeting was published May 15, 1980.

In accordance with the procedures outline in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being

kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, June 30, 1980—8:30 a.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons to continue its review of NRC funding and program direction or program termination as appropriate.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ARCS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities and to protect proprietary information. See 5 U.S.C. 552b(c)(9)(B) and 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/643–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 10, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–17882 Filed 6–12–80; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–416A, 417A]

Mississippi Power & Light Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note.—This document was originally published in the issue of May 30, 1980. It is reprinted at the request of the Nuclear Regulatory Commission.

Mississippi Power and Light, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information concerning proposed additional ownership of the Grand Gulf Nuclear Station, Units 1 and 2. The current holders of the construction permits are Mississippi Power and Light Company and Middle South Energy, Inc. The application proposes to add South Mississippi Electric Power Association as co-owner; it contains information requested by the Attorney General for the purpose of performing an antitrust review of the application as set forth in 10 CFR 50, Appendix L.

Construction of the Grand Gulf Nuclear Station, Units 1 and 2, two boiling water reactors, was authorized on September 4, 1974. This construction is currently underway at the applicants' site in Claiborne County, Mississippi.

The original application was dated November 17, 1972; the related Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was initially published in the **Federal Register** on December 6, 1972 (37 FR 25964). The Notice Receipt of Application for Facility Operating Licenses; Notice of Availability of Applicants' Environmental Report; the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the **Federal Register** on July 28, 1978 (43 FR 32903).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Claiborne County Chancery Clerk's Office, Claiborne County Courthouse, Port Gibson, Mississippi.

Any person who wishes to have his views on the antitrust matters with respect to South Mississippi Electric Power Association presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before July 29, 1980.

Dated at Bethesda, Md., this 16th day of May 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80–16266 File 5–29–80; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Information-Gathering Tour

The Chairman of the Nuclear Oversight Safety Committee is announcing that the Committee will participate in an information-gathering tour of two facilities according to the following agenda:

June 30, 1980.—The Institute of Nuclear Power Operations, Atlanta, GA.

July 1, 1980.—The Savannah River Nuclear Power Installation, Aiken, SC.

The tour, exclusively for Committee members and staff, will consist of information-gathering activities only and therefore is not considered a meeting under the provisions of the Federal Advisory Committee Act.

Inquiries should be directed to Mr. Andrew Federhar (602/255–4331).

Dennis G. Condie,

Acting Administrative Officer.

June 10, 1980.

[FR Doc. 80–17884 Filed 6–12–80; 8:45 am]

BILLING CODE 6820–01–M

OFFICE OF MANAGEMENT AND BUDGET

Project To Develop the Uniform Procurement System Proposal

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of meetings open to the public.

SUMMARY: Pub. L. 96–83, the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et. seq.), provides that the Administrator for Federal Procurement Policy shall develop and submit to the Congress, by October 1980, a proposal for a uniform procurement system including uniform policies, regulations, procedures, and forms.

Pursuant to this charge, the Administrator has established a Council on the Uniform Procurement System (CUPS), consisting of senior procurement officials from 22 departments and agencies, to advise and assist in the development of the proposal. The Administrator has also established three interagency task forces to develop and draft the component parts of the UPS proposal: Task Group No. 1 (Acquisition), Task Group No. 2 (Supply), and Task Group No. 3 (Procurement Under Assistance Programs). A charter for each of the organizations is provided herein, as is a charter for the project to develop the uniform procurement system proposal itself.

Formal meetings of the full membership of the Council and the three Task Group will be open to the public. Persons wishing to attend such meetings of these bodies should contact the following individuals for information on time and location of scheduled meetings:

Council on the Uniform Procurement System: Ms. Barbara Bauserman, Office of Federal Procurement Policy, Telephone: 202/395–7207.

Task Group No. 1 (Acquisition): Ms. Bonnie Lyons, National Aeronautics and Space Administration, Telephone: 202/755–2255.

Task Group No. 2 (Supply): Ms. Beverly Hackett, General Services Administration, Telephone: 202/557–8667.

Task Group No. 3 (Procurement Under Assistance Programs): Mr. Richard Johnson, Environmental Protection Agency, Telephone: 202/755–0860.

SUPPLEMENTARY INFORMATION: Further information regarding the subject of this notice is set forth in Attachments 1 through 5 below.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Baker, Acting Executive Associate Administrator, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., 9013 New Executive Office Building, Washington, D.C. 20503 (Telephone: 202/395–7207).

Karen Hastie Williams,

Administrator.

Attachment 1—Charter for the Project To Develop a Uniform Procurement System Proposal

Introduction

Section 6, Pub. L. 96–83 provides that the Administrator for Federal Procurement Policy develop for submission to Congress a proposal for a uniform procurement system (UPS) which will include uniform policies, regulations, procedures, and forms to the extent (she) considers appropriate and with due regard to the program activities of the executive agencies. Section 8 requires that the system proposal contain a full description of the system, projected costs and benefits, and short and long-term plans for implementation of the system. It shall apply to executive agency procurement of property, services, construction, alteration, repair, and maintenance, as well as the procurement of goods and services under Federal grant and assistance programs.

The purpose of this Charter is to set forth a conceptual plan for the development of a uniform procurement system proposal, to identify executive agency roles in the preparation of the UPS proposal, and to provide a schedule for its development.

Responsibilities

The Administrator for Federal Procurement Policy shall provide overall leadership and direction in the development of the UPS proposal, in consultation with affected executive agencies and the public. Through the mechanism of an interagency Council on the Uniform Procurement System, as chartered, the executive agencies will provide advice, assistance and personnel resources in developing the UPS proposal.

Definition

The Uniform Procurement System will be a comprehensive Government-wide system concerned with the process for (1) stating needs for goods and services in support of agency missions; (2) controlling the acquisition, supply, management and disposition of goods and services required by the executive branch; and (3) procuring goods and services under Federal grant and assistance programs. The key elements of the system are (1) uniform procurement legislation; (2) a uniform regulation system to include policies and procedures; (3) a uniform procurement management and management support system; (4) a uniform data system; (5) a uniform procurement personnel recruitment, training, and career development program.

Elements of the Proposal

The proposal for the uniform procurement system should encompass the following key elements:

1. *Uniform Procurement Legislation.* Recommend new legislation to incorporate changes required by the proposed uniform procurement system and to eliminate inconsistencies in the current procurement statutes. Consolidation of the two primary procurement statutes will provide a basis for uniform application of policies and procedures to all executive agencies and departments. The legislation should also provide for the elimination of other statutes or statutory provisions that are outdated and the consolidation of others that should be retained to enhance economy, efficiency, and equity. The relation of socio-economic matters to the procurement process should be examined. In addition, the UPS proposal should identify those relationships with Congress that are essential to an orderly, efficient procurement process. For instance, greater funding stability, multi-year funding authorizations, less direction on individual procurements would add significantly to the quality of the overall process.

2. Uniform Regulation Systems. The following systems should be considered as elements of the uniform procurement system:

a. Federal Acquisition Regulation (FAR) System. This will be a very significant element of the UPS, providing uniform policies, regulations, procedures and forms for Government-wide use in the acquisition phase of procurement. It will be a simple, clear and concise regulation system that will eliminate unnecessary burdens on contractors and Government contracting personnel. It will contain uniform polices and procedures to be used by executive agencies in acquiring property, services and construction, including alterations, repair and maintenence. The FAR will cover the inter-relationships between functional elements directly concerned with the acquisition process, beginning with the statement of needs. It will replace existing agency acquisition regulations with a single uniform Government-wide regulation, except where unique agency mission requirements necessitate supplemental agency regulations.

b. Property Management Regulation System. This will also be a significant element of the UPS, providing uniform policies, regulations, procedures and forms for Government-wide use in the supply support and property management phases of the procurement process. It will be a simple, clear and concise regulation system to eliminate unnecessary duplication and overlap in the supply process and to consider uniform policies and procedures to assure uniformity in cataloging, requisitioning, issuing, item management, storage, inventory management, transportation, utilization, disposal, and other fundamental

procurement processes not addressed in the Federal Acquisition Regulation System.

c. Uniform Regulation System for Procurement Under Grants and Assistance. This third principal regulation system, currently envisioned in the OMB Circular system, would provide uniform procurement guidelines to grantees and establish management improvement programs to enhance and update grantee management capabilities.

3. *Uniform Procurement Management and Management Support System.* In recognition of the fact that the economy and efficiency of the procurement process is affected by placement of the procurement functions within management organizations and the interfaces among procurement and procurement management functions, the UPS proposal will include consideration of these structures and processes, as exemplified by the following:

a. *Uniform Organizational Placement Standard.* The UPS proposal will address the desirability of developing a uniform standard for placement of procurement functions to ensure proper consideration of matters relating to establishment of requirements and to acquisition, supply, transportation, maintenance, disposition, etc.

b. *Government-Wide Contract Administration and Audit.* The UPS proposal will address centralized responsibility for all field level contract administration functions and, similarly, for all field level contract audit functions. It will address the desirability of providing appropriate personnel ceilings to accomplish these functions for those agencies assigned such responsibilities. Uniform policies, procedures, and forms for contract administration and contract audit will be provided in the FAR.

c. *Standard Government-Wide Item Management Assignment Criteria.* The UPS proposal will address the desirability of developing standard criteria as a basis for making Government-wide item/commodity management assignments. Such assignments would incorporate the one item/one manager concept to assure that duplication and overlap in supply management responsibilities are eliminated and to assure effective support to users.

4. *Federal Data System.* The uniform procurement system should include:

a. The Federal Procurement Data System. The System will collect data on all contracts awarded by all Executive Agencies. The FAR will include uniform data elements, forms and procedures for reporting this data to the Federal Procurement Data System.

B. Federal Property Management Information System. The uniform procurement system proposal should address the need, scope, and content of a uniform Government-wide information system to provide supply management data to Federal procurement managers.

c. Federal Acquisition Management Information System. The uniform procurement system should address the need, scope and content of information systems to provide timely acquisition management data to Federal procurement managers.

d. Federal Assistance Information System. The UPS should address the need and content of an information system with respect to procurement under Federal grant and assistance programs.

5. *Uniform Procurement Personnel Recruitment, Training, and Career Development Program.* The Nation's annual procurement expenditures affect a significant portion of our economic and industrial resources. It is imperative to maintain the best possible professional workforce with high ethical standards to handle these processes. This consideration should be addressed in the uniform procurement system proposal.

Procurement Strategies

Provide for development of policy regarding agency procurement processes which place into proper perspective, in the acquisition and supply strategy, relationships between requirements, contracting, distribution, maintenance and operations.

1. Recognize, in policy, the necessity to tailor procurement processes to reflect unique aspects and differing strategies for procuring services and end products such as major systems, construction, and research and development.

2. Recognize, in policy, the procurement process for commercial commodities that encompasses the total acquisition and distribution spectrum; i.e., (a) complete intelligence on needs translated into requirements; (b) acquisition strategies emphasizing market research and analysis and inventory management (including use of excess and rehabilitation); (c) use of commercial item descriptions and other forms of functional product descriptions; (d) contracting and administration of contracts; (e) application of government and commercial distribution and support channels; (f) user satisfaction; (g) disposal; and (h) other logistic considerations such as standard requisitioning procedures, item entry control (cataloging) and transportation.

Task

Prepare a proposal for the uniform procurement system which incorporates those elements listed above, as well as other elements of a similar nature which are determined appropriate by the Administrator, in consultation with the Council. The proposal should be structured as follows:

1. A general statement of policy regarding uniformity, including a definition of the uniform procurement system, system goals and objectives, and fundamental procurement and management principles;

2. Brief but comprehensive description of each element and process in the UPS, and anticipated costs/benefits; and

3. Short and long-term plans for implementation.

Assignments

Executive agencies shall designate knowledgeable individuals, reflecting the various disciplines involved, to work on the three task groups to develop the proposal: Task Group No. 1—Acquisition; Task Group No. 2—Supply; and Task Group No. 3—Procurement Under Assistance Programs. The task groups will be under the direction of the Administrator and will report to a Uniform Procurement System Coordinating Committee. Products will be provided to the Council on the Uniform Procurement System for review and comment.

Schedule

The Task Groups will be formed by May 16, 1980 and will complete first drafts of work products by July 11, 1980. The Coordinating Committee will prepare a consolidated report by July 25. The Council review, as well as public hearings on the first draft of the proposal, will be completed by August 29, 1980. Final drafts of the UPS proposal will be provided, by September 5, to the executive agencies for consideration. Agency comments will be provided to OFPP by September 26, 1980. The proposal will be provided to the Congress by October 10, 1980.

Attachment 2—Council on the Uniform Procurement System (CUPS); Role and Responsibilities

I. *Authority.* The Council is established pursuant to Section 4 of Pub. L. 96–83, "Office of Federal Procurement Policy Act Amendments of 1979."

II. *Structure.* Chaired by the Administrator, the Council will consist of senior procurement officials (principals and alternates) from 22

departments and agencies, as designated by the heads of those departments and agencies. The number of participating departments and agencies may be increased, at the discretion of the Administrator.

III. *Purpose.* The purpose of the Council is to serve as the principal interagency mechanism for facilitating consultation between the Administrator and executive branch departments and agencies on all aspects of the development and implementation of the uniform procurement system.

IV. *Responsibility.* The primary responsibility of the Council is to provide advice and assistance to the Administrator in the development and implementation of the uniform procurement system.

V. *Administration.* The Council will be convened periodically, at the discretion of the Administrator, during the life of the project. Administrative arrangements, including conference room scheduling, document preparation (Minutes and Agendas), and records maintenance will be provided by the Office of Federal Procurement Policy. Meetings of the Council will be open to the public and notice of such meetings will be provided to the **Federal Register**, time permitting.

Attachment 3—Uniform Procurement System; Charter for Task Group No. 1: Acquisition

I. *Subject Area:* All aspects of the Federal procurement process will be considered from the acquisition perspective: from the process for stating needs for goods and services in support of agency missions to controlling the acquisition, supply, management and disposition of systems, services, products and commodities required by the executive branch.

II. *Staffing and Leadership:*

Chairperson: Mr. Stuart Evans, NASA.

Vice Chairperson: Mr. Fred Dietrich, OFPP.

Key Agency Participants: NASA (Lead Agency), DOD, DOE, SBA, GSA, DOT, EPA, TVA, HHS, DOI, HUD.

III. *Administration:* Administrative and other arrangements necessary to assure the effective and timely accomplishment of the task group's responsibilities will be arranged by the chairperson and provided by the lead agency with the assistance of participating executive agencies. The product of the task group deliberations in the form of a written report, will be provided to the Administrator for Federal Procurement Policy not later than July 11, 1980. The report should reflect the task group's considerations, findings, conclusions, and recommendations.

Formal meetings of the full task group will be open to the public and, time permitting, notice of such meetings will be provided to the **Federal Register.**

IV. *Task:* The task group will consider all aspects of the procurement process and the procurement management and support processes in its assigned subject area. It will consider, in addition , the stated goals, objectives and governing principles for the uniform procurement system as they apply to the five elements of the UPS proposal (i.e., uniform procurement legislation; uniform regulation systems, uniform procurement management and management support system; Federal data system; uniform procurement personnel system). Consideration of these elements will enable the task group to:

1. Describe the optimum process, including the identification of key characteristics and features, for the uniform acquisition of system, services products and commodities;

2. Propose a plan and schedule including recommendations for necessary change in legislation, policy, regulation and procedure for establishing and maintaining the optimum acquisition process and related procurement management and support processes (i.e., training and career development; management data/information; program evaluation; management structure); and

3. Identify the potential for developing standard contracts, contract language, and forms; and describe, broadly, the purpose and contents of such standard documents.

V. *Task Considerations:* To assure the development of an integrated as well as uniform procurement system, the task group should maintain close liaison with Task Group Nos. 2 and 3 so that supply and procurement under grants and assistance processes and functions, as they relate to acquisition, are integrated into the acquisition process.

Attachment 4—Uniform Procurement System; Charter for Task Group No. 2: Supply

I. *Subject Area:* All aspects of the Federal procurement process will be considered from the supply perspective: from the process for stating needs for goods and services in support of agency missions to controlling acquisition, supply, management and disposition as they relate to the supply/property management and supply support of systems, products and commodities.

II. *Staffing and Leadership:*

Chairperson: Mr. Tom Morris, GSA.

Vice Chairperson: Mr. Dan Wilson, OFPP.

Key Agency Participants: GSA (Lead Agency), DOD, DOT, USDA, VA, SBA, HHS, Commerce.

III. *Administration:* Administrative and other arrangements necessary to assure the effective and timely accomplishment of the task group's responsibilities will be arranged by the chairperson and provided by the lead agency with the assistance of participating executive agenies. The product of the task group deliberations, in the form of a written report, will be provided to the Administrator for Federal Procurement Policy not later than July 11, 1980. The report should reflect the task groups' considerations, findings, conclusions, and recommendations.

Formal meetings of the full task group will be open to the public and, time permitting, notice of such meetings will be provided to the **Federal Register.**

IV. *Task:* The task group will consider all aspects of the procurement process and the procurement management and support processes in its assigned subject area. It will consider, in addition, the stated goals, objectives and governing principles for the uniform procurement system as they apply to the five elements of the UPS proposal (i.e., uniform procurement legislation; uniform regulation systems, uniform procurement management and management support system; Federal data system; uniform procurement personnel system). Consideration of these elements will enable the task group to:

1. Describe the optimum process, including the identification of key characteristics and features, for the supply of systems, products and commodities (e.g., item entry, cataloging, item management, storage, distribution, requisitioning, issuing, transportation, reutilization and disposal; and

2. Propose a plan and schedule, including recommendations for necessary changes in legislation, policy, regulation and procedure for establishing and maintaining the optimum supply process and related procurement management and support processes (i.e., training and career development; management data/information; program evaluation; management structure).

V. *Task Considerations:* To assure the development of an integrated as well as uniform procurement system, the task group should maintain close liaison with Task Group No. 1 so that acquisition processes and functions, as they relate

to supply, are integrated into the supply/property management process.

Attachment 5—Uniform Procurement System; Charter for Task Group No. 3: Procurement Under Assistance Programs

I. *Subject Area:* Procurement by recipients of Federal grants or assistance of property (other than real property in being), services (including research and development), and construction, alteration, repair or maintenance of real property to the extent required for performance of Federal grants or assistance programs will be considered.

II. *Staffing and Leadership:*

Chairperson: Mr. Harvey G. Pippen, EPA.

Vice Chairperson: Mr. Jack Nadol, OFPP.

Key Agency Participation: EPA (lead agency), HHS, SBA, HUD, Energy, NSF, DOT, Justice, OMB.

III. *Administration:* Administrative and other arrangements necessary to assure the effective and timely accomplishment of the task group's responsibilities will be arranged by the chairperson and provided by the lead agency with the assistance of participating executive agencies. The product of the task group deliberations, in the form of a written report, will be provided to the Administrator for Federal Procurement Policy not later than July 11, 1980. The report should reflect the task group's considerations, findings, conclusions, and recommendations.

Formal meetings of the full task group will be open to the public and, time permitting, notice of such meetings will be provided to the **Federal Register.**

IV. *Task:* The task group will consider all aspects of the procurement under assistance process and the procurement management and support processes in its assigned subject area. It will consider, in addition, the stated goals, objectives and governing principles for the uniform procurement system as they apply to the five elements of the UPS proposal (i.e., uniform procurement legislation; uniform regulation systems, uniform procurement management and management support system; Federal data system; uniform procurement personnel system). Consideration of these elements will enable the task group to:

1. Describe the optimum process, including the identification of key characteristics and features, for the uniform procurement of systems, services, products and commodities under assistance programs;

2. Propose a plan and schedule, including recommendations for necessary changes in legislation, policy, regulation and procedure for establishing and maintaining the optimum procurement under grants and assistance process and related procurement management and support processes (i.e., training and career development; management data/information; program evaluation; management structure); and

3. Identify the potential for developing standard contracts, contract language, and forums; and describe, broadly, the purpose and contents of such standard documents.

V. *Task Considerations:* To assure the development of an integrated as well as uniform procurement system, the task group should maintain appropriate liaison with Task Group No. 1 so that acquisition processes and functions, as they relate to procurement under assistance programs, are integrated into the procurement under assistance process.

[FR Doc. 80-17905 Filed 6-12-80; 8:45 am]

BILLING CODE 3410-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16873; File No. SR-CBOE-30-11]

Chicago Board Options Exchange, Inc.; Proposed Rule Change

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 May 27, 1980, the above-mentioned self-regulatory organization filed with the securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change

Multiple Orders Prohibited

Rule 6.55 No member, for any account in which he has an interest or on behalf of a customer, shall maintain with more than one broker orders for the purchase or sale of the same option contract, or the same combination of option contracts, with knowledge that such orders are for the account of the same principal.

Daily Unmatched Trade Report

Rule 6.[55]*60* No Change.

Reconciliation of Unmatched Trades

Rule 6.[56]*61* No Change.

Supplementary Unmatched Trade Report

Rule 6.[57]*62* No Change.

Reporting of Matched Trades to Clearing Corporation

Rule 6.[58]*63* No Change.

Maintaining Office and Filing signatures

Rule 6.[59]*64* No Change.

CBOE's Statement of Basis and Purpose

The purpose of the proposed change is to prohibit the placing of identical orders for the account of the same principal (multiple orders) with several floor brokers because, where an execution is divided up among competing brokers, an account using multiple orders receives a larger share than an account using a single order. In addition, the proposed change ends the inconsistency of allowing a Market-Maker to place multiple orders with several brokers in a trading crowd, while forbidding (in Floor Report Number 21) the coincidental presence of a Market-Maker and his order to be coincidentally present in a trading crowd.

This proposed rule change is adopted pursuant to section 6(b)(5) of the Securities Exchange Act of 1934, as amended. The change will promote just and equitable principles of trade and will protect investors and the public interest.

No comments were solicited or received on the proposed rule change.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before July 18, 1980, or within such longer period, (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 1100 L

Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 7, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

June 5, 1980.

[FR Doc. 80-17907 Filed 6-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16878; File No. SR-NSCC-80-15]

National Securities Clearing Corp. ("NSCC"); Proposed Rule Change

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 May 19, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change, as amended, enables a participant to satisfy its open account indebtedness to NSCC by depositing Letters of Credit with NSCC. The proposed rule change, interpretations of the Board of directors of NSCC and the required forms are attached as Exhibit III to NSCC's filing on Form 19b-4A, file No. SR-NSCC-80-15, as amended.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

To enable Participants to satisfy their open account indebtedness to NSCC (Clearing Fund Requirements) by depositing with NSCC Letters of Credit in favor of NSCC in such form and drawn on such domestic or foreign banks and trust companies as are acceptable to NSCC. This procedure will provide Participants with a means of satisfying their Clearing Fund Requirements at reduced rates as compared with the net costs for depositing government or municipal bonds and/or the interest loss from depositing cash.

Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the "Act"), as amended, provides, in part, that the rules of a clearing agency should be designed "* * * to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible * * * and * * * to protect investors and the public interest * * *" One of the means of satisfying this requirement is the establishment of a Clearing Fund as provided for in NSCC Rule 4. The acceptance of approved Letters of Credit will provide Participants with what appears to be a more cost effective means of complying with their Clearing Fund obligations.

The use of Letters of Credit is consistent with Sections 17A(a)(1)(B) of the Act in that it reduces the Participant's costs of complying with the requirements of the Clearing Fund and 17A(a)(1)(D) of the Act in that the reduction of the cost of becoming a Participant encourages participation in NSCC by non-users of clearing agency facilities.

The February 1, 1980 issue of the *Participant Report,* a newsletter sent to all NSCC Participants, announced that approval by the NSCC Board of directors of the concept of the acceptance of Letters of Credit to satisfy the Clearing Fund Requirements of Participants. To date, two written comments have been received; both the written and verbal comments have been positive in all aspects and can be characterized generally as requesting information as to when the deposit of Letters of Credit will be formally permitted.

NSCC does not believe that the proposed rule change would constitute a burden on competition.

On or before July 18, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to detemine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 7, 1980.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17908 Filed 6-12-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16876; File No. SR-PHLX 80-13]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 2, 1980 the above-mentiond self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change, as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc., (PHLX) proposes an amendment to its Curcular No. 99, dated December 6, 1974, entitled "Notice to All Members Regarding Plan to Establish Option Trading". The amendment decreases temporarily the amount of the subsequent options fee payable by members and applicants for membership in order to acquire option trading privileges on the PHLX. The text of the resolution adopted by the Exchange's Board of Governors and ratified by a majority of the initial options fee payers authorizing the change is attached as Exhibit 1.

PHLX's Statement of the Purpose and Basis of Proposed Rule Change

The demand for memberships with options privileges during 1979 and 1980 has continued from time to time to exceed the supply, causing either a lack of offers for sale or unreasonable ranges in bid and offers. With the lifting of the moratorium on expansion of options trading by the options exchanges it can be anticipated that such demand will continue and probably increase. The subsequent options conversion fee has been set at $33,000 since August 19, 1977, but no conversions of memberships with equit-only trading privileges have been made at that level

and memberships which already carry options trading privileges remain in short supply as above noted. In recognition of present conditions and needs, the Board has initiated action to lower the subsequent options conversion fee to $20,000 for a 90-day period, after which the fee would return to the $33,000 level. The reduction will allow holders of memberships without options privileges the opportunity to convert at a lower fee and be in a position to offer options memberships for sale. In addition, the PHLX will offer for sale memberships without options trading privileges held in the treasury at $5,000 as market conditions may determine, in anticipation of and throughout the 90-day period of the $20,000 conversion fee. Members may continue to trade memberships with or without options privileges at any price.

In 1978 the PHLX published Circular No. 78–30, dated December 29, 1978, which gave notice of a plan for lowering subsequent options conversion fees. That Circular and Plan, which were suspended because of the moratorium on expansion of options trading, have been withdrawn and replaced by the present May 1980 submission.

Availability of memberships with options trading privileges through a fair and orderly membership market will add depth to market-making capability on the options floor, enhance market liquidity and competition through addition of of-floor options members, and promote just and equitable principles of trade (Section 6(b)(5) of the Act). It will also facilitate the ability of a registered broker-dealer in becoming a member (Section 6(b)(2) of the Act).

No comments have been received from members or others on the specific proposal to lower temporarily the subsequent options fee. A comment was received in response to the preliminary notice sent out by the Exchange in Circular No. 80–11 alerting members and initial payers to the proposed lower fee.

No burden on competition will be imposed by the proposed amendment.

The foregoing rule change had become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted on or before July 7, 1980.

For the Commission by the Division of Market Regulaton, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

Whereas, periodically during the past two years the demand for regular memberships with options privileges has exceeded the supply, causing either a lack of offers for sale or unreasonable ranges in bids and offers;

And whereas, the moratorium on expansion of options trading agreed to by the Securities and Exchange Commission and the options exchanges has been lifted, as the result of which expansion in the trading of options can and may occur;

And whereas, the Board of Governors considers it to be in the best interests of the Exchange to develop an equitable plan to increase the suppy of memberships with options trading privileges;

And whereas, PBW Circular No. 99, dated December 6, 1974 gave notice to the membership of the plan to establish option trading and the method for acquisition of option trading privileges through payment of initial or subsequent option fees; and said plan allows the Board of Governors to increase or decrease the subsequent option fee, which action must be approved by a majority vote of the intitial payers who vote, in the event that such initial payers have not received distributions from subsequent options fees equal to 100% of their initial option fees, said distributions being payable pro rata 71% to the initial payers and 29% to the Exchange;

Be it resolved, as follows:

1. The subsequent option fee shall be decreased from $33,000 to $20,000 for a period of ninety days, and increased thereafter to $33,000. Said period shall become effective promptly following approval of the changes in fees by the initial payers and the securities and exchange commission. The membership and the initial payers shall receive prior notification of the date the ninety-day period commences.

2. The action on the reduction and increase in the subsequent option fee shall be submitted to a vote of the initial payers in accordance with *Circular No. 99;*

3. The opportunity to acquire option trading privileges by payment of the reduced fee shall be available to the holders of either active equity-only memberships; inactive convertible (old Class C) equity only memberships, or equity-only memberships held in non-participating status (NPS); and also to persons who apply for membership prior to the expiration date of the ninety-day period and later purchase an equity-only membership (i.e., a membership entitling the holder to trade equities only and not options);

4. In anticipation of approval of the changes in the subsequent option fee, the Board of Governors will commence offering equity-only treasury memberships at an established price of $5,000 only, on May 12, 1980, and will continue to do so during the ninety-day period of the reduced subsequent option fee. At the expiration of such period, or in the event the change in the subsequent option fee is disapproved, the Board will resume offering equity-only treasury seats at varying prices in accordance with market conditions.

[FR Doc. 80–17909 Filed 6–12–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09–5225]

Capital Opportunities for Minority Enterprises, Inc.

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act)(15 U.S.C. 661 *et seq.*), has been filed by Capital Opportunities for Minority Enterprises, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Ralph A. Callender, 6644 Wooster Avenue, Los Angeles, CA 90056, Chairman of the Board, Vice President & 9.09% Stockholder.

Vernal Claiborne, 972 Denwall Drive, Carson, CA 90746, President.

Harry E. Thomas, Jr., 4028 Kenway Ave., Los Angeles, CA 90008, Secretary, Director & 9.09% Stockholder.

Thomas L. Tucker, 5101 Corning Ave., Los Angeles, CA 90056, Treasurer, Director & 9.09% Stockholder. Asaaki A. Horii, 1628 Via Margarita, Palos Verdes Estates, CA 90274, Assistant Secretary, Director & 9.09% Stockholder.

Michael L. Luther, 434 South Peck Dr., Beverly Hills, CA 90212, Assistant Treasurer, Director, & 9.09% Stockholder.

Frank E. Barbee, 701 Orange Grove, Apt. 207, South Pasadena, CA 91030, Director & 9.09% Stockholder.

Theodore T. Fortier, 4205 Don Mariano Dr., Los Angeles, CA 90008, Director & 9.09% Stockholder.

James R. Sparks, 5240 West 62nd St., Los Angeles, CA 90046, Director & 9.09% Stockholder.

Lloyd E. Stoll, 4915 Parkglen Ave., Los Angeles, CA 90043, Director & 9.09% Stockholder.

The Applicant, a California corporation, with its principal place of business at 3701 Stocker Street, Los Angeles, California 90008, will begin operations with $506,000 of paid-in capital and paid-in surplus derived from the sales of 511 shares of common stock.

The Applicant will conduct its activities primarily in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating onwership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than June 30, 1980, submit a SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 9, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-17825 Filed 6-12-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act 1974; Proposed Revisions of Several Systems of Records

AGENCY: Department of the Treasury, Internal Revenue Service.

ACTION: Proposed revision of systems of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), Department of the Treasury, Internal Revenue Service, gives notice of the proposed revision to Treasury/IRS Systems of Records entitled: Appeals Division Case Data—Treasury/IRS 44.003 and Reports and Information Retrieval Activity Computer and Microfilm Records—Treasury/IRS 90.016. The Appeals Officer Inventory and Unit time Report System of Records—Treasury/IRS 44.002 will be eliminated. These systems are being modified to reflect the impact of the Counsel/Appeals Tracking Systems (CATS) which will be installed the beginning of fiscal year 1981. The Appeals Officer Inventory and Unit Time Report/Form 2568—Treasury/IRS 44.002 will be eliminated since the automated system will generate the report data through the Appeals Division Case Data/Treasury/IRS 44.003 system. The Counsel/Appeals Tracking System to be developed during Fiscal Years 1981–1983 will allow access by interactive terminal. This is a mode of data processing wherein the computer and user communicate with each other on a demand basis through an on-line keyboard terminal. Each message entered through the terminal is processed immediately and a reply is returned to the user. This tye of processng will involve problem solving, program compilation inquiry, file update, and other data processing tasks. Between Fiscal years 1981 and 1983, the Counsel/Appeals Tracking System will be implemented as a control and management information system for the following Chief Counsel Systems of Records: Treasury/IRS 90.001, 90.002, 90.003, 90.044, 90.005, 90.006, 90.007, 90.009, 90.010, 90.011, 90.012, 90.013, 90.014, and 90.015. The following notices reflect changes to the first systems affected by the Counsel/Appeals Tracking System. We will publish notices of the other systems as they are affected by the implementation of the Counsel/Appeals Tracking System.

DATES: Public comments must be received on or before July 14, 1980.

ADDRESSES:

Director, Appeals Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224.

Director, Administrative Services Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Bruce Conyne, Chief, Budget and Systems Branch, Office of Director of Appeals, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, (202) 566–6131.

Mr. Allen E. Kibat, Chief, Planning Analysis and Operations Branch, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, (202) 566–3455.

Dated: June 4, 1980.

W. J. McDonald,

Assistant Secretary, Administration.

The following system, as last published in 45 FR 18836 dated 3/21/80, is deleted in its entirety:

Treasury/IRS 44.002

SYSTEM NAME:

Appeals Officer Inventory and Unit Time Report, Form 2568—Treasury/IRS 44.002; Delete this Entire System.

The following system, as last published in 45 FR 18836 dated 3/21/80, is amended as follows:

Treasury/IRS 44.003

SYSTEM NAME:

Counsel/Appeals Tracking System—Treasury/IRS 44.003

SYSTEM LOCATION:

Director, Appeals Division, National Office; Appeals Offices.

* * * * *

STORAGE:

Paper, magnetic tape, interactive terminal.

RETRIEVABILITY:

By taxpayer's name, Social Security number, Employee Identification number and by Workunit number.

SAFEGUARDS:

IRS personnel on need to know basis and passwords to access system information.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Appeals Division, National Office, 1111 Constitution Avenue, Washington, D.C. 20224; Regional Directors of Appeals located in the

office of the Regional Commissioner in each of the following cities: New York City, Philadelphia, Atlanta, Cincinnati, Chicago, Dallas, and San Francisco.

* * * * *

The following system, as last published in 45 FR 18857 dated 3/21/80, is amended as follows:

Treasury/IRS 90.016

SYSTEM NAME:

Reports and Information Retrieval Activity Computer and Microfilm Records (Counsel/Appeals Tracking System)—Treasury/IRS.

SYSTEM LOCATION:

Computer Records: Internal Revenue Service Data Center, 1300 John Lodge Freeway, Detroit, Michigan 48226 (and a commercial vendor to be later identified for FY 1981–1983 system development). Microfilm Records: Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who initiated suited for refund in district courts or the Court of Claims. (2) Taxpayers who have filed petitions with the United States Tax Court. (3) Taxpayers who have requested rulings from the Service in those cases in which the request has been referred to the Office of Chief Counsel for a legal opinion. (4) Taxpayers who have been involved in litigation concerning the collection of taxes. (5) Taxpayers whose cases were the subject of technical advice, memoranda to the Solicitor General and similar advisory memoranda. (6) The Counsel/Appeals Tracnking System to be developed during fiscal years 1981–1983 will act as a control and Management Information System for the following Chief Counsel Systems of Records: Treasury/IRS 90.001, 90.002, 90.003, 90.004, 90.005, 90.006, 90.007, 90.009, 90.010, 90.011, 90.012, 90.013, 90.015, and 90.014. The system will contain control records concering the categories of individuals identified in these systems. Control records concerning individuals who have or had cases pending with the Appeals Division will also be included in the system.

* * * * *

STORAGE:

Skeletal legal files and indexes to the narrative material or microfilm excluding the General Litigation Division's Actions on Decisions are stored on magnetic tape. Action on Decisions, Case Abstracts, Technical Advice and Advisory Memoranda are stored on microfilm. Input documents are on paper. The system to be developed during fiscal years 1981–1983 will also allow access by interactive terminal.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply. The system to be developed during fiscal years 1981–1983 will also allow retrieval by legal jacket number and case issue.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Passwords are required in the Counsel/Appeals Tracking System to access system information.

* * * * *

[FR Doc. 80–18033 Filed 6–12–80; 8:45 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 116
Friday, June 13, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-283; June 10, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., June 17, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Docket 37982, Domestic Fare Flexibilty—Puerto Rico (memo 9691-A, 9691-B, BDA, OEA, OGC).

3. Docket 37294, Priority and Nonpriority Domestic Service Mail Rates Investigation, Order establishing mail rates (memo No. 7673-J, BDA).

4. Docket 34683, PS-82, Final rule accelerating the formula for increases in the intrastate SIFL under PS-82 to bring them to the level of the interstate SIFL (BDA).

5. Docket 37169, Petition for rulemaking by Golden Holiday Tours, Inc., to make the direct air carrier responsible for returning charter passengers who are stranded by a strike or other interruption in its service (OGC, BDA, BCP).

6. Docket 30452, Application for prior approval of UATP-1976 agreements concerning industry credit card plan (BDA) (memo 8236-F).

7. Docket 36595, Investigation into the Competitive Marketing of Air Transportation; IATA's motion requesting interim approval and antitrust exemption for agreements establishing the new IATA Cargo Agency Program applicable in the United States (BDA).

8. Docket 34564, ATC agreement amending rules on default declaration by individual carriers and Docket 32705, Motion of Popular Latin Travel Agency to re-examine the ATC agreements on default declaration and liability for lost or stolen tickets (memo No. 8209-B, BDA).

9. Docket 31133, Petition of ASTA requesting the Board to reconsider its action in Order 79-11-196 in approving the ATC agreements requiring personal guarantees (agreements CAB 27001-A5 and 27004-A2) (memo 8620-B, BDA).

10. Docket 33974, Revocation of the Section 418, all-cargo air service certificate of Emery Air Freight; Petition for review filed by Local 851, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. (memo No. 9735, BDA, OGC).

11. Part 204, Final Rule, Data To Be Submitted With Applications for Passenger Route Authority Filed With The Board And by Commuter Carriers Serving An Eligible Points (BDA).

12. Docket 28755 et al., Dismissal of Route Realignment (memo No. 9739, BDA).

13. Dockets 38181 and 38212, Big Sky's notice to suspend service at Mussoula and Butte, Montana, and application for an exemption to suspend service at these points on less than 90 days notice (BDA).

14. Docket 38168, Frontier Airlines' request for exemption to suspend nonstop or single-plane service in four markets on less than 60-days notice (BDA, OCCR).

15. Docket 37588, Palm Beach Environmental Study (BDA).

16. Draft Notice of Proposed Rulemaking to prohibit tariffs from automatically becoming part of the passenger/airline contract, regardless of passenger knowledge of their terms and to set guidelines for any notice given by a carrier to its passengers of the terms and conditions of air service (memo No. 9709, BCP, BDA, OGC).

17. Docket 35392, Free and reduced-rate transportation and barter (OGC, BDA).

18. Docket 36595, 37833, Competitive Marketing Investigation, Motion of the Air Traffic Conference for Consolidation and Interim approval of new and amended travel agent resolutions (memo No. 9504-A, OGC).

19. Docket 27114, Pan American-Trans World Airlines Route Exchange Agreement, motion of Pan American for Board review and vacation of arbitration award issued pursuant to arbitral provision in labor protection provisions in the Board's 1975 order approving the carrier's temporary "route swap" (memo No. 4873-N, OGC).

20. Dockets 33361, 32637, and 32638, Former Large Irregular Air Service Investigation—Application of Aero Finance Corporation (memo No. 9737, OGC).

21. Docket 33169, 33170, Applications of Rosenbalm Aviation, Inc. Docket 33362, Former Large Irregular Air Service Investigation; Order on reconsideration (memo No. 9666-A, OGC).

22. Docket 37931, Skip-Stop Restriction Removal Subpart Q Proceeding; Docket 38195, Piedmont's Exemption Application to overfly Knoxville After Providing One Daily Round Trip (memo No. 9551-A, BDA).

23. Docket 33641, Application of Braniff Airways, Inc. for (1) new nonstop authority between Boston and South America and (2) Boston-New York fill up authority on flights serving South America. Docket 33639, Application of Braniff for Boston-South America *pendente lite* exemption authority. Docket 35378, Application of Braniff for Boston-Rio de Janeiro/Buenos Aires pendente lite exemption authority (BIA).

24. Docket 37865, Denver-London Service Case, Dockets 38000, 38002; application of Continental Air Lines, Inc. and Western Air Lines, Inc., for Denver-London certificate authority (BIA).

25. Docket 32660, IATA agreements proposing Fuel-related fare increases to/from American Samoa, Puerto Rico and the U.S. Virgin Islands (BIA).

26. IATA agreements affecting fares in the U.S.-Japan market. These increase most fares by 2 percent, change the maximum validity of APEX fares and adopt various currency adjustment factors on Japan-originating fares (memo No. 9738, BIA, BDA).

27. Docket 37943, investigation of excess baggage charges proposed by Quantas Airways Ltd. (memo No. 9559-A, BIA BALJ).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1149-80 Filed 6-11-80; 3:04 am]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00a.m., June 18, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1151-80 Filed 6-11-80; 3:27 pm]

BILLING CODE 6351-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 38472; June 9, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., June 11, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number and Company

CP-2—CP78-123, et al., Northwest Alaskan Pipeline Co.

Kenneth F. Plumb,

Secretary.

[S-1148-80 Filed 6-11-80; 11:05 am]

BILLING CODE 6450-85-M

4

FEDERAL RESERVE SYSTEM.

(Committee on Employee Benefits of the Board of Governors)

TIME AND DATE: 3 p.m., Thursday, June 19, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals on internal personnel procedures relating to the System's employee benefits program, including the following:

a. retired Federal Reserve Bank officer's claim against the Thrift Plan; and

b. review of actuarial assumptions recommended by a consulting firm.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 11, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1155-80 Filed 6-11-80; 3:59 pm]

BILLING CODE 6210-01-M

5

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, June 18, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed policy on the marketing of bank holding company commercial paper by an affiliated bank.

Discussion Agenda:

1. Participations in bankers' acceptances offered by First National Bank of Chicago, Chicago, Illinois.

2. Proposed legislation to amend the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 10, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1147-80 Filed 6-11-80; 10:32 am]

BILLING CODE 6210-01-M

6

LEGAL SERVICES CORPORATION.

(*Committee on Provision of Legal Services*)

PLACE: Legal Services Corporation, 733 15th Street NW., Washington, D.C.

TIME AND DATE: 2 P.M.-5 P.M., THURSDAY, JUNE 19, 1980.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of March 28-29, 1980 Meeting.
3. Delivery System Study Report.
4. 1980 Expansion Report.
5. Legal Services Institute.
6. President's Report.
7. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President (202) 272-4040.

Dated: June 9, 1980.

Dan J. Bradley,

President.

[S-1144-80 Filed 6-10-80; 4:09 pm]

BILLING CODE 6820-35-M

7

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of meeting held with less than seven days advance notice.

The National Credit Union Administraton Board determined that its business required that a meeting be held with less than seven days advance notice to consider an agreement relating to Federal share insurance for Massachusetts credit unions.

The meeting was held at 3:00 p.m. on Monday, June 9, 1980 in the Board room of the Natonal Credit Union Administration, 1776 G Street, N.W., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board (202) 357-1100.

[S-1152-80 Filed 6-11-80; 3:57 pm]

BILLING CODE 7535-01-M

8

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of Change in Subject of Meeting.

The National Credit Union Administration Board had determined that its business requires that the previously announced closed meeting on Wednesday, June 11, 1980 include the following additional item which will be closed to public observation:

Litigation referral to Department of Justice. Closed pursuant to exemptions (6), (9)(A) and (10).

Earlier announcement of this change was not possible.

The previously announced items are:

1. Proposed charter amendment. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Proposed mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Proposed conversion from Federal to State charter with continued NCUSIF insurance. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Administrative Action under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
5. Requests from Federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Report on action taken under delegations of authority. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
7. Personnel Actions. Closed pursuant to exemption (6).

The meeting will be held at 10:15 a.m., in the seventh floor Board room at 1776 G St. N.W., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1153-80 Filed 6-11-80; 3:57 pm]

BILLING CODE 7535-01-M

9

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, June 19, 1980.

PLACE: 1776 G Street N.W., Washington, D.C., Seventh floor board room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Final rule to exempt borrowings from the Central Liquidity Facility from the limitation

on borrowings by Federally Insured State Chartered Credit Unions (Reference Section 741.3 of NCUA Rules and Regulations).

3. Proposed amendments to Pub. L. 95–630—Financial Institutions Regulatory and Interest Rate Control Act of 1978.

4. Report on actions taken under delegations of authority.

5. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–1154–80 Filed 6–11–80; 3:57 pm]

BILLING CODE 7535–01–M

10

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 A.M., JUNE 19, 1980.

PLACE: Board's meeting room eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

(1) Briefing by senior executive service candidates.

(2) Windfall accounting.

(3) Interview by industrial psychologist.

(4) Continuing control of travel by Board employees.

(5) Office of Personnel Management Survey of Bureau of Unemployment and Sickness Insurance.

(6) Registration requirements for unemployment insurance.

(7) Appeal from referee's denial of annuity application, Iola Boyett.

Portion closed to the public:

(A) Appeal from referee's denial of disabled widow's insurance annuity, Florence R. Villiger.

(B) Intra-Board personnel matters.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920, FTS No. 387–4920.

[S–1146–80 Filed 6–11–80; 9:21 am]

BILLING CODE 7905–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 16, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meeting will be held on Wednesday, June 18, 1980, at 2:30 p.m. An open meeting will be held on Thursday, June 19, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, June 18, 1980, at 2:30 p.m., will be:

Chapter X proceeding.
Institution of injunctive actions.
Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Subpoena enforcement action.
Report of investigation.
Regulatory matter bearing enforcement implications.
Personnel security matter.
Administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, June 19, 1980, at 10:00 a.m., will be:

1. Consideration of whether to approve a report, concerning the reporting requirements governing the disclosure of the beneficial ownership of equity securities and related issues, prepared pursuant to Section 13(h) of the Securities Exchange Act of 1934, which directs the Commission to submit to Congress a report concerning the effectiveness of the ownership reporting requirements contained in that Act and on the desirability and feasibility of reducing or otherwise modifying the five percent reporting thresholds in Sections 13(d)(1) and 13(g)(1) of that Act. For further information, please contact W. Scott Cooper at (202) 272–2589.

2. Consideration of whether to issue a release requesting comments on proposed amendments to Rule 242 (17 CFR 230.242) and to Rule 252 (17 CFR 230.252) of Regulation A to make disqualifications to the use of limited offering exemptions under Rule 242 and Regulation A under section 3(b) of the Securities Act of 1933 terminate automatically after a specified period of time and to modify the list of disqualifications and persons to whom they apply. For further information, please contact Gail Gordon Alkire at (202) 272–2644.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2091.

June 11, 1980.

[S–1150–80 Filed 6–11–80; 3:22 pm]

BILLING CODE 8010–01–M

12

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m., Thursday, June 12, 1980.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

Old Business.

Req. No. 826432—Gas ducts for Johnsonville Steam Plant. Further consideration of award for equipment to be used in the plant's flue gas desulfurization system.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: June 10, 1980.

Approved: S. David Freeman.

Richard M. Freeman.

Robert N. Clement.

Disapproved: None.

[S–1145–80 Filed 6–11–80; 8:53 am]

BILLING CODE 8120–01–M

federal register

Friday
June 13, 1980

Part II

Department of Health and Human Services

Office of the Secretary

Improving Government Regulations; Semiannual Agenda of Regulations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III,
21 CFR Ch. 1,
42 CFR Chs. I–IV,
45 CFR Subtitles A and B

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Health and Human Services.

ACTION: Publication of the semiannual agenda of regulations (Improving Government Regulations).

SUMMARY: The President's Executive Order on Improving Government Regulations, Executive Order 12044, requires each Federal agency to publish at least twice a year a list of significant regulations under development. HHS published its first semiannual agenda in the May 30, 1978, **Federal Register** (43 FR 23119), a second agenda on January 29, 1979 (44 FR 4176), a third agenda on August 16, 1979 (44 FR 48040) and a fourth on December 14, 1979 (44 FR 72728). This semiannual agenda contains: (1) All non-FDA regulations being developed within the Department; and (2) FDA regulations classified as "policy significant".

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: Glenn Kamper, Director, Regulations Management Unit, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, Telephone: (202) 245–3160.

Dated: June 4, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

REGULATIONS AFFECTING SERVICES AND OPPORTUNITIES TO INDIVIDUALS

AGE

Infants and Preschool Children

PHS–6 Protection of Human Subjects: Regulations on Research Involving Children

PHS–85 Health Education—Risk Reduction Grants—Amendments to Include Programs to Discourage Smoking and the use of Alcoholic Beverages Among Children and Adolescents

HDS–2 Developmental Disabilities Program: General Rules

HDS–4 Developmental Disabilities Program: General Rules

HDS–5 Child Abuse and Neglect Prevention and Treatment Program: General Rules

HDS–8 Child Abuse and Neglect Prevention and Treatment Program: General Rules

HDS–11 Technical Amendments to 45 CFR Parts 220, 222 and 228 to insure that social service programs comply with the requirements in 45 CFR Part 74

HDS–15 Eligibility Requirements and Limitations for Enrollment in Head Start

SSA–9 Inclusion of Child Receiving OASDI Benefits into an AFDC Assistance Unit (AFDC)

SSA–11 Continued Absence of Parent from the Home (AFDC)

SSA–44 Determination of Assistance Payment When One or More Family Members Are SSI Beneficiaries (AFDC)

SSA–47 Provision for Payment of Benefits to Young Husbands and Surviving Divorced Fathers (OASDI)

School-Age Children

PHS–6 Protection of Human Subjects: Regulation on Research Involving Children

PHS–85 Health Education—Risk Reduction Grants—Amendments to Include Programs to Discourage Smoking and the use of Alcoholic Beverages Among Children and Adolescents

HDS–4 Developmental Disabilities Program: General Rules

HDS–8 Child Abuse and Neglect Prevention and Treatment Program: General Rules

HDS–2 Developmental Disabilities Program: General Rules

HDS–5 Child Abuse and Neglect Prevention and Treatment Program: General Rules

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SSA–47 Provision for Payment of Benefits to Young Husbands and Surviving Divorced Fathers (OASDI)

OS–1 Age Discrimination Regulations

Adolescents and Young Adults

HDS–2 Developmental Disabilities Program: General Rules

HDS–11 Technical Amendments to 45 CFR Parts 220, 222 and 228 to insure that social service programs comply with the requirements in 45 CFR Part 74

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OS–1 Age Discrimination Regulations

Adults

HDS–5 Social Service Programs: Consolidated Grants to Insular Areas

HDS–6 Native American Program: General Rules

HDS–1 Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules

HDS–2 Developmental Disabilities Program: General Rules

HDS–3 Social Service Programs: Consolidated Grants to Insular Areas

HDS–4 Native American Program: General Rules

HDS–9 Work Incentive Program: Relocation to Chapter XIII to 45 CFR

HDS–10 Social Service Programs under Titles I, IV, X, XIV, XVI (AABD) and XX of the Social Security Act: Relocation to Chapter XIII of 45 CFR

HDS–11 Technical Amendments to 45 CFR Parts 220, 222 and 228 to insure that Social Service Programs Comply with the Requirements in 45 CFR Part 74

TYPE OF SERVICE

Health

PHS–1 Conduct of Persons and Traffic on Certain Federal Enclaves: Revision of General Rules

PHS–2 National Library of Medicine Programs: Revision of General Rules for the National Library of Medicine. National Library of Medicine Grants, National Institutes of Health and National Library of Medicine Traineeships, and National Institutes of Health and National Library of Medicine Training Grants

PHS–3 Inventions Resulting from Research Grants, Fellowship Awards, and Contracts for Research—Clarification of Reporting Requirements

PHS–5 Protection of Human Research Subjects—Institutional Review Boards

PHS–6 Protection of Human Subjects: Regulations on Research involving Children

PHS–7 Protection of Human Subjects: Regulations on Research Involving Those Institutionalized as Mentally Disabled

PHS–15 Foreign Quarantine Regulations: Requirements and Inspections

PHS–17 Medical Examination of Aliens

PHS–19 Subpart A—Requirements for a Health Maintenance Organization

PHS–24 Subpart F—Qualification of Health Maintenance Organizations

PHS–25 Subpart H—Employees' Health Benefits Plans

PHS–26 Subpart I—Continued Regulation of HMOs and Other Entities

PHS–31 Persons to Whom Services Will be Provided

PHS–33 Medical Care for Uniformed Service Personnel of the Coast Guard, Public Health Service and National Oceanic and Atmospheric Administration

PHS–34 Medical Care for Seafarers and Others at Public Health Service Facilities

PHS–35 Public Health Service Hospital and Clinic Management

PHS–38 Amendments to MCH CC Services Program

PHS–39 Grants to Plan, Develop and Operate Hospital-Affiliated Primary Care Centers
PHS–40 Project Grants for Community Health and Migrant Health
PHS–41 Demonstration Health and Nutrition Projects
PHS–42 Project Grants to States for Hypertension Services
PHS–43 Program Grants for Black Lung Clinics
PHS–45 Grants for Community Mental Health Centers; Requirements for Grants, Application for Grants, and State Plans
PHS–46 Grants for Drug Abuse Prevention, Treatment, and Rehabilitation: Requirements for State participation in Formula Grants
PHS–48 Confidentiality of Alcohol and Drug Abuse Patient Records; Minimum Requirements for Protecting
PHS–49 Designation of Health Manpower Shortage Areas
PHS–57 Area Health Education Centers
PHS–69 Grants for Nurse Practitioner Traineeships Programs
PHS–72 National Guidelines for Health Planning
PHS–73 Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds
PHS–74 Health Systems Agency Review of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
PHS–75 Health Systems Agency and State Agency Reviews of the Appropriateness of Existing Institutional Health Services
PHS–78 Certificate of Need and Review of New Institutional Health Services
PHS–79 Inclusion of Computed Tomographic Scanning Services Under Certificate of Need
PHS–80 Inclusion of Computed Tomographic Scanning Services Under Capital Expenditure Review
PHS–81 Limitation on Federal Participation for Capital Expenditures
PHS–83 National Institutes of Health Center Grants
PHS–84 Clinical Laboratories: Revision of Quality Control Regulations to Include Additional Requirements for Alpha-fetoprotein Testing
PHS–86 NIOSH Investigations of Places of Employment
PHS–87 NIOSH Grant Regulations; Conformance with Part 74
PHS–88 Fees for Direct Training, Center for Disease Control
PHS–89 Clinical Laboratories—Deletion of Requirement for License Fees
PHS–90 Possession, Use, and Transport of Smallpox and Whitepox viruses
PHS–91 Indian Health
PHS–92 Redesignation of Health Service Areas
PHS–93 Funding of Health Systems Agencies—General
PHS–94 Discretionary Funding of Health Systems Agencies
PHS–95 National Guidelines for Health Planning (Standards)
PHS–97 Governing Body Requirement for Health Systems Agencies
PHS–98 Drug Abuse Project Grant Program
OCR–2 Provisions of Services to Limited English Speaking Persons
OS–1 Age Discrimination Regulations

Health Financing

PHS–20 Subpart B—Federal Financial Assistance: General
PHS–28 New Subpart I—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities
PHS–96 Tax-exempt Refinancing of Health Facilities Construction Loans
HCFA–2 Waiver of Liability
HCFA–3 Professional Standards Review Organizations (PSROs) Reconsideration and Appeals
HCFA–4 Hospital Utilization Review
HCFA–5 Validation of Accreditation Surveys of Hospitals
HCFA–6 Conditions of Participation for Hospitals
HCFA–7 Funding of PSRO Hospital Review
HCFA–8 Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)
HCFA–13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA–15 Sprinkler Systems for Long Term Care Facilities
HCFA–16 Termination of Federal Financial Participation in Long Term Care Facilities
HCFA–17 Radiological Services
HCFA–18 Reimbursement of Prepaid Health Plans
HCFA–21 Provider Reimbursement Determinations
HCFA–22 Fiscal Intermediary Performance
HCFA–23 Durable Medical Equipment
HCFA–25 Part A Entitlement and Copayments
HCFA–26 Reimbursement: Intership and Residency Programs
HCFA–27 Teaching Hospitals' Physicians Costs
HCFA–28 Special Care Units
HCFA–29 Reimbursement to Related Organizations
HCFA–30 End-Stage Renal Disease Networks
HCFA–31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA–32 Deeming of Income Between Spouses
HCFA–33 Educational Program Reimbursement
HCFA–34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA–35 Prospective Reimbursement of Rural Health Clinic Services
HCFA–36 Family Planning
HCFA–37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA–38 State Medicaid Contracts
HCFA–39 Hearing Aid and Eyeglass Reimbursement
HCFA–41 Medicaid Quality Control System Expansion of Information Requirements
HCFA–43 Medicaid Quality Control Fiscal Disallowance—Michel Amendment
HCFA–44 Psychosurgery
HCFA–45 Verification of Services
HCFA–46 Recovery and Sanctions: Medicaid
HCFA–47 Title XIX Administrative Sanctions
HCFA–48 Medicaid Recodification: General Requirements
HCFA–49 System for Hospital Uniform Reporting
HCFA–50 Skilled Nursing Facility/ Intermediate Care Facility Uniform Cost Reports
HCFA–52 Skilled Nursing Facility/ Intermediate Care Facility Discharge and Bill Data
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HCFA–54 Home Health Agency Discharge and Bill Data
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PHS–30 Indian Health Care Improvement Act Programs
PHS–51 Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs
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PHS–54 Scholarships for First-Year Students of Exceptional Financial Need
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PHS–62 Health Profession Financial Distress Grants
PHS–63 Interdisciplinary Team Training and Curriculum Development for Health Manpower Training
PHS–64 Grants for Training in Emergency Medical Services
PHS–65 Grants for Graduate Programs in Health Administration
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PHS–67 Grants for Allied Health Projects
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PHS–83 National Institutes of Health Care Centers
HCFA–1 Professional Standard Organizations (PSROs) Providers
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HCFA–26 Reimbursement Internship and Residency Program
HCFA–27 Teaching Hospitals' Physicians Costs
HCFA–31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA–33 Educational Programs Reimbursement
HCFA–36 Family Planning
HCFA–44 Psychosurgery

Allied Services

PHS–9 Standards for Clinical Laboratory Personnel—Requirements for Certification
PHS–14 Interstate Shipment of Etiologic Agents: Packaging, Labeling, and Shipping Requirements
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HCFA–5 Validation of Accreditation Surveys of Hospitals
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HCFA–34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
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Community Based Health Centers

PHS–39 Grants to Plan, Develop and Operate Hospital-Affiliated Primary Care Centers
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PHS–73 Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds
HCFA–17 Radiological Services
HCFA–18 Reimbursement Prepaid Health Plans
HCFA–26 Durable Medical Equipment
HCFA–30 End-Stage Renal Disease Networks
HCFA–31 Incentive Reimbursement for End-Stage Renal Disease Services
HCFA–34 Proposed List of Additional Items and Services Subject to the Lower charge Level
HCFA–36 Family Planning
HCFA–55 Use of Federal Funds for Certain Prescribed Drugs
FDA 25—Prescription Drug Labeling: Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
FDA 72—Recommendations on Exposure from Diagnostic X-Ray Examinations
FDA 73—Recommendations for Referral Criteria for Diagnostic Radiological Examinations
FDA 84—Patient Information for Medical Devices

Pharmaceutical Manufacturers and Distributors

HCFA–55 Use of Federal Funds for Certain Prescribed Drugs
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 15—Antibiotic Certification; Exemption of Dermatologic and Vaginal Drug Products

FDA 16—Antibiotic Certification; Exemption of Systemic Drug Products
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 19—Drug Efficacy Study Implementation; Abbreviated New Drug Applications for Post-1962 Drugs
FDA 20—Drug Quality Assurance; Current Good Manufacturing Practice for Large Volume Parenterals
FDA 22—New Drug Evaluation; Public Disclosure of Specifications
FDA 23—New Drug Evaluation; Revision of IND/NDA Regulations
FDA 24—Prescription Drug Advertising; Revision of Regulations
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol

Medical Devices and Equipment Manufacturers and Distributors

HCFA-13 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities
HCFA-17 Radiological Services
HCFA-23 Durable Medical Equipment
HCFA-34 Proposed List of Additional Items and Services Subject to the Lowest Charge Level
HCFA-36 Family Planning
HCFA-39 Hearing Aid and Eyeglass Reimbursement
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 58—Classification of Preenactment Devices
FDA 59—Regulations to Require Premarket Approval
FDA 60—Premarket Approval Procedural Regulation
FDA 61—Product Development Protocols
FDA 64—Restricted Device Regulation
FDA 65—Mandatory Experience Reporting
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol
FDA 67—California Application for Exemption from Preemption
FDA 68—Applications for Exemption from Preemption for State and Local Hearing Aid Requirements
FDA 69—Additional Applications for Exemption from Preemption for State and Local Hearing Aid Requirements
FDA 83—Restrictions on Alpha-Fetoprotein Test Kits
FDA 84—Patient Information for Medical Devices

Cosmetic Manufacturers and Distributors

FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 52—Lead Acetate
FDA 54—Bubble Bath Products Warnings

Biomedical Research Facilities

HCFA-44—Psychosurgery
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators

Animal Drug Manufacturers and Distributors

FDA 16—Antibiotic Certification; Exemption of Systemic Drug Products
FDA 55—Procedural Regulations for Cyclic Review of Animal Drugs
FDA 56—Sensitivity of Method
FDA 74—Neomycin Containing Animal Drugs
FDA 75—Sulfonamide Containing Animal Drugs
FDA 77—Teat Dips
FDA 78—Animal Drugs for Minor Species
FDA 79—Sterility and Pyrogenicity of Animal Drugs
FDA 80—Approval of Supplemental New Animal Drug Application

Animal Feed Manufacturers and Distributors

FDA 70—Recommendations for State and Local Agencies Concerning Accidental Radioactive Contamination of Human Food and Animal feed
FDA 76—Medicated Feed Task Force Implementation
FDA 81—Prohibited Substances; Deodorizer Distillates
FDA 87—Current Good Manufacturing Practice Relating to Poisonous and Deleteric Substances in Food, Feed, and Food-Packaging Materials Plan

Biological Product Manufacturers and Distributors

FDA 1—Antigen E Assay; Potency Standards
FDA 2—Limulus Amebocyte Lysate (LAL); Specific Manufacturing Standards
FDA 3—Allergenic Source Material Standards
FDA 4—Radioallergosorbent Test (RAST); Potency Test
FDA 5—Error and Accident Reports; Amend Blood GMPs
FDA 6—Reorganize Whole Blood Regulations
FDA 7—Uniform Blood Labeling Requirements
FDA 8—Notification of FDA Regarding Adverse Reaction; Recordkeeping and Reporting Requirements
FDA 9—Panel on Review of Allergenic Extracts; Product Effectiveness
FDA 10—Panel on Review of Viral Vaccines and Rickettsial Vaccines; Product Effectiveness
FDA 11—Panel on Review of Blood and Blood Products; Product Effectiveness
FDA 12—Panel on review of Bacterial Toxoids and Bacterial Vaccines with U.S. Standards of Potency; Product Effectiveness
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 23—New Drug Evaluation; Revision of IND/NDA Regulations
FDA 24—Prescription Drug Advertising; Revision of Regulations
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 84—Patient Information for Medical Devices

Food Manufacturers and Distributors

FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 28—Cholesterol-Free Egg Substitute
FDA 29—Plant Protein; Common or Usual Names for Foods, Vegetable Protein Products Which Resemble and Substitute for Meats, Seafood, Poultry, Eggs, or Cheese
FDA 30—Sugar Labeling of Foods
FDA 33—Aflatoxin in Peanuts
FDA 34—Color Certification; Procedures for Non-Conforming Batches
FDA 35—Use of Food Preservatives BHT
FDA 36—Procedural Regulations for the Cyclic Review and Priority Listing of Food and Color Additives
FDA 37—Net Weight
FDA 38—Caffeine
FDA 39—GRAS Whey; Whey Products and Hydrogen Peroxide Used in Whey Treatments
FDA 40—Retortable Pouch
FDA 41—Xylitol
FDA 42—Food and Color Additives; Risk Assessment
FDA 43—Trichloroethylene
FDA 44—Use of Chlorine Gas in an Aqueous Solution
FDA 45—Nitrite as Color Additive in Bacon
FDA 46—Prior Sanction Status of Nitrites in Poultry Products
FDA 47—Safety of Food Ingredients Sucrose and Corn Sugar
FDA 48—Optional Ingredient Labeling Regarding Certain Food Standards
FDA 49—National Shellfish Safety Program
FDA 50—Dietary Supplement of Vitamins and Minerals
FDA 51—Labeling of Sodium and Potassium Content of Foods
FDA 70—Recommendations for State and Local Agencies Concerning Accidental Radioactive Contamination of Human Food and Animal Feed

FDA 82—Descending Order of Predominance Ingredient Labeling Statement
FDA 85—Infant Foods and Formulas
FDA 86—Infant Formulas Quality Control Labeling Regulation
FDA 87—Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants

Pharmacists

FDA 25—Prescription Drug Labeling; Policy on Patient Labeling
FDA 26—Biopharmaceutics Program; Therapeutic Equivalence Evaluations

All Organizations

OS–1 Age Discrimination

Mining Industry

PHS–43 Program Grants for Black Lung Clinics
PHS–86 NIOSH Investigations of Places of Employment
PHS–87 NIOSH Grant Regulations; Conformance With Part 74

Alcohol and Drug Facilities

PHS–46 Grants for Drug Abuse Prevention Treatment and Rehabilitation; Requirements for State Participation in Formula Grants
PHS–48 Confidentiality of Alcohol and Drug Patient Records; Minimum Requirements for Protecting
PHS–98 Drug Abuse Project Grant Program

Indian Tribes and Tribal Organizations Health Facilities

PHS–32 Grants for Development, Construction, and Operations of Facilities and Services

State Medicaid Agencies

HCFA–36 Family Planning
HCFA–37 Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services
HCFA–38 State Medicaid Contracts
HCFA–39 Hearing Aid and Eyeglass Reimbursement
HCFA–41 Medicaid Quality Control System Expansion of Information Requirements
HCFA–44 Psychosurgery
HCFA–45 Verification of Services
HCFA–47 Title XIX Administrative Sanctions
HCFA–55 Use of Federal Funds for Certain Prescribed Drugs
HCFA–56 Common Audit Requirements
HCFA–57 Medicaid Overpayment Reporting Requirements
HCFA–59 Limits on Costs and Charges for New Technology
HCFA–60 Limitations on Reasonable Charges for Computerized Tomography Scan Services
HCFA–67 Requirements for Federally Funded Hysterectomies
HCFA–68 Permissable Charges to Patient Funds
HCFA–71 Survey and Certification
HCFA–45 Verification of Services
HCFA–46 Withholding Payments on Suspicion of Fraud
HCFA–47 Title XIX Administrative Sanctions
HCFA–58 Cost Reporting Requirements for Home Health Agencies (HHAs)
OCR–2 Provisions of Services to Limited English Speaking Persons

Colleges and Universities

PHS–30 Indian Health Care Improvement Act Programs
PHS–63 Interdisciplinary Team Training and Curriculum Development for Health Manpower Training
PHS–67 Grants for Allied Health Projects
PHS–74 Health Systems Agency Review of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigators
FDA 14—Bioresearch Monitoring; Informed Consent
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators
FDA 71—Recommendations for National Standards for Medical Radiation Technologists

Graduate and Professional Schools

PHS–51 Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs
PHS–52 Traineeship Grants for Health Administration, Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other than Schools of Public Health
PHS–54 Scholarships for First-Year Students of Exceptional Financial Need
PHS–55 Health Professions Capitation Grants
PHS–56 Project Grants for Establishment of Departments of Family Medicine
PHS–57 Area Health Education Centers
PHS–58 Grants for Residency Training in General Internal Medicine or General Pediatrics
PHS–59 Grants for Training in Family Medicine
PHS–61 Grants to Schools of Medicine, Dentistry, Public Health, Osteopathy, Optometry, Podiatry, Pharmacy, and Veterinary Medicine for Start-up Assistance
PHS–62 Health Professions Financial Distress Grants
PHS–63 Interdisciplinary Team Training and Curriculum Development for Health Manpower Training
PHS–64 Grants for Training in Emergency Medical Services
PHS–65 Grants for Graduate Programs in Health Administration
PHS–66 Special Project Grants for Graduate Programs In Public Health
PHS–67 Grants for Allied Health Projects
PHS–68 Grants for Traineeships for Advanced Training of Allied Health Personnel
PHS–69 Grants for Nurse Practitioner Traineeships Programs
PHS–70 Grants for Traineeships for the Advanced Training of Professional Nurses
PHS–74 Health Systems Agency Review of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training

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OS–1 Age Discrimination Regulations

Other

OCR–2 Provisions of Services to Limited English Speaking Persons

INCOME MAINTENANCE

State and Local Governments

SSA–4 Quality Control Reviews—General Administration
SSA–13 Administrative and Fiscal Requirements for Federal Financial Participation in Financial Assistance to Individuals
SSA–25 Coverage of Employees of State and Local Governments
SSA–27 Disability
SSA–41 Interim Assistance Provisions
SSA–42 Pass Along Benefit Increase With Limitation for Hold-Harmless States
SSA–44 Determination of Assistance Payment When One or More Family Members are SSI Beneficiaries (AFDC)
SSA–46 Application Eligibility Determinations and Furnishing Assistance

All Organizations

OS–1 Age Discrimination Regulations

Other

OCR–2 Provisions of Services to Limited English Speaking Persons

SOCIAL SERVICES

State and Local Government Agencies

HDS–2 Developmental Disabilities Program: General Rules
HDS–5 Child Abuse and Neglect Prevention and Treatment Programs: General Rules
HDS–11 Technical Amendments to 45 CFR Parts 220, 222, and 228 To Insure That Social Service Programs Comply with the Requirements in 45 CFR Part 74
HDS–12 Disclosure by Providers of Certain Ownership Interests and Other Information Under the Title XX Social Services Program
HDS–13 Social Service Programs for Individuals and Families: Title XX of the Social Security Act
SSA–40 Referrals of Persons Eligible for SSI to Other Agencies
SSA–45 Applications Eligibility Determination and Furnishing Assistance

Child Care Facilities

HDS–5 Child Abuse and Neglect Prevention and Treatment Program: General Rules

Residential Care Facilities

HDS–2 Developmental Disabilities Program: General Rules
HDS–5 Child Abuse and Neglect Prevention and Treatment Program: General Rules

Vocational and Rehabilitation Facilities

SSA–10 Referrals of Persons Eligible for SSI to Other Agencies

Local Services (i.e., nutrition and counseling)

HDS–1 Grants for States and Community Programs on Aging: General Rules

All Organizations

OS–1 Age Discrimination Regulations
OS–2 Day Care Requirements

Other

HDS–1 Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules
HDS–3 Social Service Programs: Consolidated Grants to Insular Areas
HDS–4 Native American Program: General Rules
HDS–10 Social Service Programs Under Titles I, IV, X, XIV, XVI (AABD) and XX of the Social Security Act: Relocation to Chapter XIII of 45 CFR
HDS–11 Technical Amendments to 45 CFR Parts 220, 222 and 228 To Insure That Social Service Programs Comply With the Requirements in 45 CFR Part 74
HDS–12 Disclosure by Providers of Certain Ownership Interests and Other Information Under the Title XX Social Services Program
HDS–13 Social Service Programs for Individuals and Families: Title XX of the Social Security Act
HDS–15 Eligibility Requirements and Limitations for Enrollment in Head Start

SUNSET REVIEW REGULATIONS

The following regulations are listed for the purposes of Section 4 of Executive Order 12044, which requires a periodic review of existing regulations. They are described in more detail elsewhere in this agenda.

HCFA–6 Medicare/Medicaid Program: Conditions of Participation for Hospitals—Revised Conditions for Participation
HCFA–13 Medicare/Medicaid Program: Conditions of Participation for Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)—Conditions of Participation
HCFA–21 Medicare Program: Provider Reimbursement Determinations—Criteria and Procedures for PRRB Hearings and Decisions
HCFA–25 Medicare Program: Part A Entitlement and Copayments—Clarification of Eligibility Requirements
HCFA–29 Medicare Program: Reimbursement to Related Organizations—Sets Reimbursement Limits
HCFA–65 Medicare Program: Recodification: Medicare Provider Reimbursement Determinations and Appeals
PHS–18 National Institute for Occupational Safety and Health Investigative Procedures: Mining Amendments
PHS–30 Indian Health Care Improvement Act Programs
PHS–32 Grants for Development, Construction, and Operations of Facilities and Services
PHS–33 Medical Care for Uniformed Services Personnel of the Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration 42 CFR 31
PHS–34 Medical Care for Seafarers and Others at Public Health Service Facilities
PHS–35 Public Health Service Hospital and Clinic Managment, 42 CFR 35
SSA–14 Social Security Administration—Reorganization and Updating of Disclosure Regulations, 20 CFR Part 401
SSA–15 Social Security Administration—Availability of Information and Records to the Public, 20 CFR Parts 401 and 422
SSA–25 Old Age, Survivors, Disability Insurance Program—Coverage of Employees of State and Local Governments, 20 CFR Part 404, Subpart M
SSA–27 Old Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Disability, 20 CFR Part 404, Subpart P and Part 416, Subpart I
SSA–29 Old Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Representative Payee, 20 CFR Part 404, Subpart Q and Part 416, Subpart F
SSA–30 Supplemental Security Income Program—Eligibility, 20 CFR Part 416, Subpart B
SSA–37 Supplemental Security Income Program—Program Income, 20 CFR Part 416, Subpart K
SSA–45 Fair Hearings, 45 CFR Part 205.10
SSA–46 Application Eligibility Determinations, and Furnishing Assistance 45 CFR Part 206
OCSE–2 Office of Child Support Enforcement—Strengthening of CSE, Audit and Penalty Regulations, 45 CFR Parts 301, 302, 304 and 305
OCSE–3 Office of Child Support Enforcement—Optional Procedures for Distribution of Child Support Collections (Immediate Distribution), 45 CFR Parts 302 and 304
OCSE–4 Office of Child Support Enforcement—OCSE Recodification, Phase I 45 CFR Parts 302 and 304
OCSE–5 Office of Child Support Enforcement—OCSE Recodification, Phase II, 45 CFR 302 and 303
HDS–4 Developmental Disabilities Program: General Rules
HDS–6 Native American Program: General Rules

Department of Health and Human Services Semiannual Regulations Agenda and Review List

Public Health Service

Title	Summary	Contact	Decision quarter
PHS–1—Conduct of Persons and Traffic on Certain Federal Enclaves: Revision of General Rules.	A. *Description:* These regulations govern the conduct of individuals and traffic on the National Institutes of Health reservation in Bethesda, Md. and will be extended to cover the U.S. PHS Hospital at Staten Island, N.Y. The regulations deal with traffic; parking; buildings and grounds; prohibited activities such as gambling, nuisances and discrimination; and specify penalties. B. *Why Significant:* This revision brings up to date these regulations which were last revised in 1970, by making minor additions, improving readability and extending coverage to the PHS Hospital, Staten Island, over which the U.S. has exclusive or concurrent jurisdiction. C. *Regulatory Analysis:* Not required. D. *Need:* This revision is necessary in order to comply with the Department's program of recodification and "Operation Common Sense." E. *Legal Basis:* Sec. 1–5, 62 Stat. 281, as amended, 75 Stat. 574 (40 U.S.C. 318–318d); Sec. 205, 63 Stat. 389, as amended, 64 Stat. 591, 76 Stat. 414 (40 U.S.C. 486); Delegations of Authority 33 FR 604, 41 FR 19162, 41 FR 34346, 44 FR 15774. F. *Chronology:* Notice of Decision to Regulate published July 20, 1979 (44 FR 42727) NPRM published December 20, 1979 (44 FR 75415).	William G. Ketterer, Senior Attorney, NIH, Office of the General Counsel, National Institutes of Health, Bethesda, Md. 20205, (301) 496–6043.	Final Regulations July–September 1980.
PHS–2—National Library of Medicine Programs: Revision of General Rules for the National Library of Medicine, National Library of Medicine Grants, National Institutes of Health and National Library of Medicine Traineeships, and National Institutes of Health and National Library of Medicine Training Grants.	A. *Description:* There are 4 NLM regulations undergoing revision. The regulations at 42 CFR Part 4 relate to the access of facilities and library collections. Those at 42 CFR Part 59a deal with the NLM extramural programs. These rules provide guidance for applying for grants for establishing, expanding and improving basic library resources and for establishing Regional Medical Libraries. The regulations at 42 CFR Part 63 deal with both NIH and NLM traineeships. The regulations at 42 CFR Part 64 govern the training grants of NIH and NLM. B. *Why Significant:* These proposed amendments will bring up to date the NLM regulations by (1) improving readability by the use of the HEW Operation Common Sense principles, and (2) allowing for inclusion of updated nondiscrimination language. In addition, the regulation at 42 CFR Part 59a will be revised to remove the requirement of providing photocopies of biomedical materials without charge to users.	Kenneth Carney, Acting Executive Officer, National Library of Medicine, Bethesda, Md. 20209, (301) 496–6491.	Notice of Proposed Rulemaking October–December 1980.

Department of Health and Human Services Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* These revisions are necessary to comply with the Department's programs of recodification and "Operation Common Sense." E. *Legal Basis:* 42 USC 216, 42 USC 276 and 42 USC 280b-2. F. *Chronology:* Notice of Decision to Regulate published November 21, 1979 (44 FR 66852)		
PHS-3—Inventions Resulting from Research Grants, Fellowship Awards, and Contracts for Research—Clarification of Reporting Requirements.	A. *Description:* This proposal will revise the Department's regulations at 45 CFR Part 8.5 so that they clearly spell out the Department's reporting requirements, rather than simply stating the requirements will be at the discretion of the Assistant Secretary for Health. B. *Why Significant:* In its present form, the regulations are entirely adequate to provide the Assistant Secretary for Health with the authority to require or forgive the filing of invention reports. The problem with the regulation is that it is unnecessarily vague on the basis of experience and is not, therefore, in the public's interest. The regulations could be improved by merely stating what is or is not required. C. *Regulatory Analysis:* Not required. D. *Need:* In 1975, the Assistant Secretary for Health decided to delete the reporting requirements from all fellowships and training awards not primarily awarded to conduct research. Changes in various internal policy documents were made to reflect this decision. Despite these changes, it is clear from the level of inquiries that confusion remains in the minds of grantees over what has to be reported. This proposed revision will clearly state what is or is not required and eliminate further confusion. E. *Legal Basis:* 22 FR 9695, Dec. 4, 1957, as amended at 31 FR 12842, Oct. 1, 1966. F. *Chronology:* Notice of Decision to Regulate published January 7, 1980 (45 FR 2353)	Lowell D. Peart, NIH Regulations Officer, Division of Management Policy, National Institutes of Health, Bethesda, Md. 20205, (301) 496-4606.	Notice of Proposed Rulemaking July-September 1980.
PHS-5—Protection of Human Research Subjects—Institutional Review Boards.	A. *Description:* These revised regulations will govern the IRB mechanism. The purpose of IRBs is to assure that biomedical and behavioral research, conducted or supported by HEW, meets the requirements concerning informed consent by persons involved as subjects in research. The revision is based on recommendation of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. B. *Why Significant:* These regulations are significant in that review of proposed research by IRBs is the primary mechanism for assuring that the rights of human subjects are protected. C. *Regulatory Analysis:* Not required; however, under consideration. D. *Need:* The National Research Act created the Nat'l. Comm. One of the topics of study identified in the mandate to the Commission was "Institutional Review Boards". The Commission was required to make recommendations to the Secretary, regarding IRB mechanisms and appropriate enforcement mechanisms for carrying out decisions. The Commission's report was published in the FEDERAL REGISTER and public comments were received. After reviewing the recommendations and comments, the Secretary decided to issue regulations on this subject. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Recommendations of the Commission regarding IRBs published Nov. 30, 1978 (43 FR 56174). Comment period ended Jan. 29, 1979. NPRM published August 14, 1979 (44 FR 47688). Comment period ended Nov. 12, 1979.	F. William Dommel, Jr., J.D., Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	Final Regs. October-December 1980.
PHS-6—Protection of Human Subjects: Regulations on Research Involving Children.	A. *Description:* These regulations will provide additional protections for children who are research subjects of DHEW conducted or supported research. B. *Why Significant:* These regulations define the circumstances under which such research can be conducted or supported, describe procedures for the review and approval of the research, and identify the requirements for informed consent to participate in research by and for such subjects. C. *Regulatory Analysis:* Not required. D. *Need:* The National Research Act, requires the Secretary to publish all recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the FEDERAL REGISTER, to solicit public comment, to consider the recommendations and relevant comments and to take appropriate administrative action with respect to the recommendations. After reviewing the recommendations and comments, the Secretary decided to issue regulations on this subject. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Recommendations of the Commission regarding children published Jan. 13, 1978 (43 FR 2084). Comment period ended March 14, 1978. NPRM published July 21, 1978 (43 FR 31786). Comment period originally ended Sept. 19, 1978, but was extended by the NPRM on IRBs to Nov. 12, 1979.	F. William Dommel, Jr., J.D., Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	Final Regs. October-December 1980.
PHS-7—Protection of Human Subjects: Regulations on Research Involving Those Institutionalized as Mentally Disabled.	A. *Description:* These regulations will provide additional protections for those institutionalized as mentally disabled persons who participate as subjects in DHEW conducted or supported research. B. *Why Significant:* These regulations would implement the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research by defining the circumstances under which research projects involving the institutionalized mentally disabled can be conducted or supported. The implementing regulations would also spell out requirements for consent or, in the absence of competence, assent of the institutionalized mentally disabled. The regulations would also require increasing evidence of benefit to the subjects as the risks of the research escalated. C. *Regulatory Analysis:* Not required.	F. William Dommel, Jr., J.D., Assist. Dir. for Regs., Office for Protection from Research Risks, National Institutes of Health, Bethesda, Md. 20205, (301) 496-7163.	Final Regs. October-December 1980.

Department of Health and Human Services Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* The National Research Act, requires the Secretary to publish all recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the FEDERAL REGISTER, to solicit public comment, to consider the recommendations and relevant comments and to take appropriate action with respect to the recommendations and comments. The Secretary decided to issue regulations on this subject. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* Recommendations of the Commission regarding Those Institutionalized as Mentally Disabled published March 17, 1978 (43 FR 11328). Comment period ended May 16, 1978. Notice of decision to develop regulations published April 24, 1978 (43 FR 17375). Notice of Proposed Rulemaking published Nov. 17, 1978 (43 FR 53950). Comment period originally ended Jan. 16, 1979, but was extended by the NPRM on IRBs to Nov. 12, 1979.		
PHS-9—Standards for Clinical Laboratory Personnel—Requirements for Certification.	A. *Description:* Unifies and integrates Departmental personnel standards affecting clinical laboratories so that they may be more uniformly applied to all clinical laboratories under the aegis of the Department. The proposed revision also will update personnel qualification requirements. B. *Why significant:* Existing Department personnel standards for clinical laboratories apply to about 950 laboratories licensed under the Clinical Laboratories Improvement Act of 1967 and to about 3400 Medicare certified independent laboratories. The proposed regulations would also apply to about 6700 Medicare certified hospital laboratories. C. *Regulatory Analysis:* Not required. D. *Need:* Implementation of the proposed regulations would provide for uniform application of one set of personnel standards to all clinical laboratories licensed or Medicare certified by the Department. E. *Legal Basis:* For laboratories licensed under the Clinical Laboratories Improvement Act of 1967, see Section 353 of the Public Health Service Act, 42 U.S.C. 263a. For laboratories certified under the Medicare program, see Section 1861(s)(3), (10), and (11) of the Social Security Act, 42 U.S.C. 1395x(s) (3), (10), and (11). F. *Chronology:* NPRM published on October 12, 1979 (44 FR 58923). Comment period ended November 26, 1979. Reopened comment period (45 FR 2353) January 11, 1980. Comment period ended February 11, 1980. Notice of public meeting on June 9–11, 1980 published on April 18, 1980 (45 FR 26387).	Dr. Louis C. LaMotte, Director, Licensure and Proficiency Testing Division, Bureau of Laboratories, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329–3824, FTS: 236–3824.	Final Rule—July–September 1980.
PHS-10—Health Incentive Grants for Comprehensive Public Health Services.	A. *Description:* Establishes requirements for health incentive grants to States to assist them in providing comprehensive public health services. Will provide a method for the equitable distribution of funds among State and local public health entities within the State and define program accountability measures. B. *Why significant:* State and local health agencies have the primary responsibility for a broad area of public health: health protection and health maintenance directed at populations, and personal health services directed at disadvantaged persons and those at special risk. This program makes grants to provide a Federal sharing in the costs of those vital services, in a manner designed to encourage State and local health entities to increase their own investments. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 314(d) of the Public Health Service Act, as amended by the Health Services and Centers Amendments of 1978. E. *Legal Basis:* 42 U.S.C. 246d. F. *Chronology:* Notice of Decision to Develop Regulations published on May 1, 1979 (44 FR 25476). Development of NPRM in abeyance pending legislative action.	Mr. Dennis D. Tolsma, Office of the Center Director, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329–3243, FTS: 236–3243.	NPRM. To be determined.
PHS-12—Grants for Preventive Health Services (42 CFR Part 51b): Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Diseases.	A. *Description:* Established requirements for research, demonstrations and public information and education grants for the prevention and control of venereal disease and implements an amendment to Section 318 of the Public Health Service Act that at least 5 percent of grant funds appropriated under Section 318 for the prevention and control of venereal diseases be expended for this program. B. *Why significant:* Provides regulatory base to expand capability to refine venereal disease prevention and control technology. C. *Regulatory Analysis.* Not required. D. *Need:* To implement changes made to Section 318(b) of the Public Health Service Act by the Health Services and Centers Amendments of 1978. E. *Legal Basis:* ection 318 of the Public Health Service Act (42 U.S.C. 247c), as amended by the Health Services and Centers Amendments of 1978. F. *Chronology:* Notice of Decision to Develop Regulations published April 13, 1979 (44 FR 22133). Comment period will end 45 days after publication of NPRM.	Dr. Paul J. Wiesner, Director, Venereal Disease Control Division, Bureau of State Services, Center for Disease Control, Atlanta, Georgia 30333, Phone: (404) 329–3343, FTS: 236–3343.	NPRM—July–September 1980.
PHS-13—Grants for Preventive Health Services (42 CFR Part 51b): Subpart H—Grants for Detection, Treatment, and Prevention of Lead-Based Paint Poisioning.	A. *Description:* Governs the award of grants for lead-based paint poisoning prevention programs. B. *Why significant:* Reflects the transfer of statutory authority for the program and revisions in the law pertaining to advisory committees and the use of local resources. C. *Regulatory Analysis.* Not required. D. *Need:* The revised regulation is necessary to reflect both the transfer of the authority for this program from the Lead-Based Paint Poisioning Prevention Act to Section 316 of the Public Health Service Act and the amendments to the authority. E. *Legal Basis:* Section 316 of the Public Health Service Act (42 U.S.C. 247a), as amended by the Health Services and Centers Amendments of 1978. F. *Chronology: Notice of Decision to Develop Regulations published September 27, 1979 (44 FR 55602). Comment period will end 45 days after publication of NPRM.*	Dr. Vernon N. Houk, Director, Environmental Health Services Division, Bureau of State Services, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Phone: (404) 262–6645, FTS: 236–6645.	NPRM—July–September 1980.

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PHS-14—Interstate Shipment of Etiologic Agents: Packaging, Labeling, and Shipping Requirements.	A. *Description:* Provides packaging and shipping requirements for interstate shipment of etiologic agents, and a system for receiving and responding to notifications of evidence or reports of damage or leakage to shipments of regulated materials during transit. B. *Why significant:* Prescribes procedures for minimum packaging of materials containing etiologic agents which are transported in interstate traffic for diagnostic, therapeutic, research, and production purposes in accordance with individual and national health needs and interests. C. *Regulatory analysis:* Not required. D. *Need:* To update the list of infectious agents any new viruses which have been recognized or which are appropriate to add, and to simplify and/or clarify the description of the materials to which the packaging, labeling, and shipping requirements are applicable. E. *Legal Basis:* Section 361 of the Public Health Service Act (42 U.S.C. 264). F. *Chronology:* Notice of Decision to Develop Regulations published June 29, 1979 (44 FR 37963). NPRM published November 21, 1979 (44 FR 66853). Comment period ended January 21, 1980.	Dr. John H. Richardson, Director, Office of Biosafety, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3885, FTS: 236-3885.	Final Rule—July-September 1980.
PHS-15—Foreign Quarantine Regulations: Requirements and Inspections.	A. *Description:* Provides procedures on preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. B. *Why significant:* The procedures affected all international traffic arriving in the U.S. by ship, aircraft, or land conveyances. C. *Regulatory Analysis:* Not required. D. *Need:* To update the regulations in accordance with current concepts of disease surveillance, investigation, and control. E. *Legal Basis:* Section 361 of the Public Health Service Act (42 U.S.C. 264) F. *Chronology:* Notice of Decision to Develop Regulations published June 29, 1979 (44 FR 37963). Comment period will end 60 days after publication of the NPRM.	Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333, Phone: (404) 329-3674, FTS: 236-3674.	NPRM—July-September 1980.
PHS-17—Medical Examination of Aliens.....	A. *Description:* Provides for the physical and mental examination of aliens within the United States or in other countries as required by the Immigration laws. B. *Why significant:* The regulations provide the basis for the physical and mental examination of aliens to determine whether the aliens are afflicted with any of the excludable conditions as stated in the Immigration and Nationality Act. C. *Regulatory Analysis:* Not required. D. *Need:* To implement changes in accordance with current epidemiological concepts and medical diagnostic standards. E. *Legal Basis:* Section 325 of the Public Health Service Act (42 U.S.C. 264) and Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182). F. *Chronology:* Notice of Decision to Develop Regulations published June 29, 1979 (44 FR 37962). Comment period will end 60 days after publication of NPRM.	Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3674, FTS: 236-3674.	NPRM—July-September 1980.
PHS-18—National Institute for Occupational Safety and Health Investigative Procedures; Mining Amendments.	A. *Description:* This rule amends existing provisions of 42 CFR Parts 85 and 85a to include current procedures for NIOSH health hazard evaluations and field research investigations in the mining industry. B. *Why significant:* Will enable NIOSH to develop data for improved health standards to reduce health risks to miners. C. *Regulatory Analysis:* Not required. D. *Need:* To impelement NIOSH's expanded research authorities under the Federal Mine Safety and Health Act of 1977. E. *Legal Basis:* 30 U.S.C. 801 et. seq. F. *Chronology:* NPRM published on December 5, 1978 (43 FR 56918). Comment period ended January 4, 1979.	Dr. James Merchant, Director, Division of Respiratory Diseases Studies, National Institute for Occupational Safety and Health, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505. Phone: (304) 599-7474, FTS: 923-7474.	Final Rule—October-December 1979.
PHS-19—Subpart A—Requirements for a Health Maintenance Organization.	A. *Description:* This regulation defines the health benefits, providers of health services, method of payment, organization and operation, and special requirements concerning Titles XVIII and XIX members. B. *Why Significant:* These regulations establish requirements for basic and supplemental health services which an HMO must provide its members for a fixed, prepaid fee. These regulations impact on 98 federally qualified HMOs which have a membership of 5.1 million persons, as of September 1979. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978 and to revise certain provisions of the regulations to reflect the operating experience of the program. E. *Legal Basis:* Sec. 215, 88 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—42 CFR 110.108(c)(1) Full and Fair Disclosure; § 110.108(c)(2) Broadly representative enrollment; 110.108(s) Reporting and disclosure under the Employee Retirement Income Security Act of 1974 ("ERISA"). Comment period: 6/22/79-8/21/79. 44 FR 36862-5. —NPRM—42 CFR Part 110. Health Maintenance Organizations; Relationships Between Federally Qualified Health Maintenance Organizations and Other Parties. Comment period: 7/18/79-9/17/79. 44 FR 41838-41. —Interim Regulations—42 CFR Part 110, subpart A. Comment period: 7/18/79-9/17/79. 44 FR 42060-71. —Publication of this PHS regulation is being coordinated with the "ERISA" requirements of the Department of Labor's regulations for the Pension and Benefits Program. —Further revisions to be made through an NPRM.	Howard R. Veit, Director, Office of Health Maintenance, Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	..... Final "ERISA" Regulation" October-December 1980. ..... Final Regulations July-September 1980. ..... NPRM October-December 1980.
PHS-20—Subpart B—Federal Financial Assistance: General.	—A. *Description:* This regulation establishes the requirements for awarding grants, loans, and loan guarantees to public and private entities for feasibility surveys, planning and initial development activities and initial operating costs of HMOs. B. *Why Significant:* Substantial interest has been shown by public and private entities in developing HMOs. Approximately 305 organizations have received Federal grant and loan assistance and currently 81 organizations are actively pursuing HMO development with grant funds. In addition, these regulations impact on health systems agencies and State health planning and development agencies in their evaluation of HMO applications.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	Final Regulation July-September 1980.

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Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—42 CFR Part 110, subpart B. Comment period: 3/17/78–5/16/78. 43 FR 11472–6. —Final regulations—42 CFR Part 110—subpart B. Comments requested on one proposed provision: 7/18/79–9/17/79. 44 FR 42074–79. —Final rule under revision.		
PHS–24—Subpart F—Qualification of Health Maintenance Organizations.	A. *Description:* This regulation establishes the requirements for determining whether an entity is a qualified HMO. B. *Why Significant:* This regulation describes the procedures and information that an HMO must provide in making application to become federally qualified. C. *Regulatory Analysis:* Not required. D. *Need:* To update program changes in the qualification process and information provided the public. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Interim Regulations—42 CFR Part 110, subpart F. 42 FR 29400–16. (Under revision.) —Further revisions to be made through a NPRM.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.	NPRM, July–September 1980.
PHS–25—Subpart H—Employees' Health Benefits Plans.	A. *Description:* This regulation establishes the requirements for certain employers and States and political subdivisions of States to include in any health benefits plans offered to their employees the option of membership in qualified HMOs. B. *Why Significant:* This regulation describes the requirements which certain employers and States and political subdivisions of States must follow in offering the HMO option to their employees. This regulation impacts on all employers with 25 or more employees and States and political subdivisions of States. C. *Regulatory Analysis. Not required.* D. *Need:* To implement the HMO Amendments of 1978 and to revise certain provisions of the regulations to reflect the operating experience of the program. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Final regulation—42 CFR 110.809 Payroll Deductions. Comment period: 7/18/79–9/17/79. 44 FR 42082. —NPRM—42 CFR Part 110, subpart H. Comment period: 7/18/79–9/17/79. 44 FR 42083–91.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.	Final Regulation, July–September 1980.
PHS–26—Subpart I—Continued Regulation of HMOs and Other Entities.	A. *Description:* This regulation establishes the requirements for continued compliance of federally qualified HMOs. B. *Why Significant:* This regulation describes the enforcement and compliance procedures with respect to HMOs and other entities which fail to comply with such requirements. C. *Regulatory Analysis:* Not required. D. *Need:* To amend the enforcement and compliance procedures to reflect the operating experience of the program. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (U.S.C. 216); Secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —Final Regulations—42 CFR Part 110, subpart I. Comment period: none. 43 FR 32254–6. —Further revisions to be made through a NPRM.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20357, 301/443–4106.	NPRM, January–March 1981.
PHS–27—Subpart J—Reconsiderations and Hearings (NPRM).	A. *Description:* This regulation would have established requirements for investigating and determining whether HMOs have violated the HMO Act or the regulations. In addition, it would have established procedures for requesting reconsiderations and hearings with respect to denial of qualification applications. B. *Why Significant:* This regulation described the requirements for investigating and determining whether HMOs have violated the HMO Act or regulations and procedures to follow in requesting reconsiderations and hearings in the denial of qualification applicants. C. *Regulatory Analysis:* Not required. D. *Need:* To establish grievance and appeals procedures. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17). F. *Chronology:* —Notice of Decision to Revise Regulations. 44 FR 22133. —NPRM—Comment period: 9/17/76–11/1/76. 41 FR 40292–5. —Notice to withdraw this NPRM was submitted for official clearance on 4/28/79. Since the conditions that prompted the NPRM to be issued have changed, there is no need for this rule to be published.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.	Notice to withdraw NPRM. July–September 1980.
PHS–28—New Subpart J—Loans and Loan Guarantees for Acquisition and Construction of Ambulatory Health Care Facilities.	A. *Description:* This regulation establishes the requirements for qualified HMOs to obtain loans and loan guarantees to acquire or construct ambulatory health care facilities and acquire equipment for those facilities. B. *Why Significant:* This regulation allows the Secretary to make and guarantee loans to qualified HMOs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the HMO Amendments of 1978 concerning the authority to provide loan assistance to eligible HMOs. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17).	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.	Final Regulations July–September 1980.

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Title	Summary	Contact	Decision quarter
	F. *Chronology:* Interim Final Regulations published April 9, 1980 (45 FR 24352). Comment period ended June 9, 1980.		
PHS-29—New Subpart—Grants and Cooperative Agreement for Training and Technical Assistance.	A. *Description:* This regulation establishes the requirements for the award of grants and cooperative agreements for management and technical assistance. B. *Why Significant:* This regulation allows the Secretary to make grant funds available to support the training of qualified management personnel. D. *Need:* To implement the HMO Amendments of 1978 to support management training activities. E. *Legal Basis:* Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-3003-17). F. *Chronology:* —Draft NPRM under development.	Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.	NPRM October-December 1980.
PHS-30—Indian Health Care Improvement Act Programs.	A. *Description:* Amends 42 CFR 36, Subpart J—Indian Health Care Improvement Act Program (Pub. L. 94-437)—to reflect conformance with the Department's new regulations on grant administration which should result in greater standardization and simplification for IHS grant administration and a greater reliance on the grantee's own management systems. B. *Why Significant:* The regulations will conform existing IHS grant administration regulations to the Department's new regulations which establishes uniform requirements for the administration of HHS grants and principles for determining costs applicable to activities assisted by HHS grants. C. *Regulatory Analysis:* Not required. D. *Need:* IHS has been directed by the Department to revise 42 CFR 36, Subpart J, as required by the Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, Circular No. A-102, Revised (published September 12, 1977, 42 FR 45828), to conform to the Department's new regulations on grant administration (45 CFR Part 74). E. *Legal Basis:* 5 U.S.C. 301; 42 FR 45828; 25 U.S.C. 1601. F. *Chronology:* Changes to subpart J are governed by Section 702(b) of Pub. L. 94-437. That section requires that any changes be published in the FEDERAL REGISTER with at least a 60 day comment period and that IHS will consult with appropriate national or regional Indian organizations to the extent practicable. G. *Citation:* 42 CFR 36, Subpart J.	Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301)-443-1116).	NPRM October-December 1980.
PHS-31—Persons to whom services will be provided.	A. *Description:* The regulation will amend 42 CFR 36.12 to specify eligibility for services for dependent members of an eligible Indians' household and will correct the illegal sex-discrimination clause so that the eligibility status of non-Indian spouses will be the same regardless of sex. B. *Why significant:* The regulation will amend basic eligibility criteria and, therefore, affect delivery of IHS services to the Indian population. C. *Regulatory Analysis:* Not required. D. *Need:* To amend currrent regulation because OGC and the Justice Department have advised that the current regulation which provides eligibility only for non-Indian wives of eligible Indians is legally indefensible being an illegal discrimination based on sex and OGC has also advised that IHS policy of serving dependent members of an eligible Indians' household both Indian and non-Indian should be provided for in regulation rather than only in the IHS manual. E. *Legal Basis:* 25 U.S.C. 13 (Snyder Act) and 42 U.S.C. 2001 (Transfer Act). F. *Chronology:* Intent to issue a NPRM dealing with these issues was published in the preamble to the final regulations for Contract Health Services, 42 CFR 36, Subpart C, 43 FR 34649, August 4, 1978. Notice of decision to amend regulations was published on April 13, 1979 (44 FR 22132). G. *Citation:* 42 CFR 36.12.	Richard J. McCloskey, Room 6A-20; 5600 Fishers Lane, Rockville, Maryland 20857; (301-443-1116).	NPRM July-September 1980.
PHS-32—Grants for Development, Construction, and Operations of Facilities and Services.	A. *Description:* Amends 42 CFR 36, Subpart H—Grants for Development, Construction, and Operations of Facilities and Services (Pub. L. 93-638)—to reflect conformance with the Department's new regulations on grant administration which should result in greater standardization and simplification for IHS grant administration and a greater reliance on the grantee's own management systems. B. *Why Significant:* The regulation will conform existing IHS grant administration regulations to the Department's new regulations which establishes uniform requirements for the administration of HHS grants and principles for determining costs applicable to activities assisted by HHS grants. C. *Regulatory Analysis:* Not Required. D. *Need:* IHS has been directed by the Department to revise 42 CFR 36 Subpart H, as required by the Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, Circular No. A-102, Revised (published September 12, 1977, 42 FR 45828), to conform with the Department's new regulations on grant administration (35 CFR Part 74). E. *Legal Basis:* 5 U.S.C. 301; 42 FR 45828; 25 U.S.C. 450. F. *Chronology:* Changes to Subpart H are governed by the procedures outlined in Section 107(c) of Pub. L. 93-638 which require any changes to be submitted to the committees on Interior and Insular Affairs of the respective Houses of Congress and be published in the FEDERAL REGISTER with at least a 60 day comment period. IHS is also to consult with appropriate national or regional Indian organizations to the extent practicable. In addition to the legislative requirements, the current regulation itself requires that IHS consult with the tribes and that the final rule not go into effect until 30 days after publication in the FEDERAL REGISTER. G. *Citation:* 42 CFR 36, Subpart H.	Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301-443-1116).	NPRM October-December 1980.
PHS-33—Medical Care for Uniformed Services personnel of the Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration 42 CFR 31.	A. *Description:* Provides Conditions under which beneficiaries will receive medical, dental, and surgical care at Public Health Service and Non-Public Health Service facilities. B. *Why significant:* Explains benefits available to beneficiaries and the rules they must follow to secure benefits. Rules may serve to enhance or deny care to certain beneficiaries. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement Public Health Service Act, administrative decisions.	Mr. Walter W. Ward, Procedural Implementation Section, Policy Coordination Branch, Bureau of Medical Services, 6525 Belcrest Road, West Hyattsville, Md. 20782, (301) 436-6261.	NPRM July-September 1980.

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	E. *Legal Basis:* Sec. 326 of the Public Health Service Act (42 U.S.C. 253) F. *Chronology:* None.		
PHS-34—Medical Care for Seafarers and others at Public Health Service facilities.	A. *Description:* Provides conditions under which beneficiaries will receive medical, dental, and surgical care at Public Health Service and Non-Public Health Service facilities. B. *Why significant:* Explains benefits available to beneficiaries and the rules they must follow to secure benefits. Rules may serve to enhance or deny care to certain beneficiaries. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement Public Health Service Act, administrative decisions. E. *Legal Basis:* Sec. 322 of the Public Health Service Act (42 U.S.C.) 249). F. *Chronology:* Previous (existing) regulations published 6/17/75.	Mr. Walter W. Ward, Procedural Implementation Section, Policy Coordination Branch, Bureau of Medical Services, 6562 Belcrest Road, West Hyattsville, Md. 20782, (301) 436-6261.	NPRM July-September 1980.
PHS-35—Public Health Service Hospital and Clinic Management, 42 CFR 35.	A. *Description:* Provides how the Public Health Service will manage facilities and relate to patients and visitors; and generally describe how health care should be provided. B. *Why significant:* Established the responsibilities, standards, and authorities under which managers operate Public Health Service facilities, and rules of conduct for patients and visitors. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to implement Public Health Service Act, administrative decisions. E. *Legal Basis:* Sec. 321 of the Public Health Service Act (42 U.S.C. 248).	Mr. Walter W. Ward, Procedural Implementation Section, Policy Coordination Branch, Bureau of Medical Services, 6525 Belcrest Road, West Hyattsville, Md. 20782, (301) 436-6261.	NPRM July-September 1980.
PHS-38—Amendments to MCH CC Services Programs.	A. *Description:* This regulation will implement statutory amendments dealing with reasonable costs and will make clarifying administrative changes. B. *Why Significant:* These are technical amendments. C. *Regulatory Analysis:* Not Required. D. *Need:* To improve implementation of Title V, Social Security Act, based on minor statutory changes and experience in administering the program. E. *Legal Basis:* Sections 503 and 504, Social Security Act, as amended. F. *Chronology:* None.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM July-September 1980.
PHAS-39—Grants to Plan, Develop and Operate Hospital-Affiliated Primary Care Centers.	A. *Description:* Regulations will implement a demonstration program for providing comprehensive primary health care services to medically underserved communities by community hospitals through reorganized outpatient resources. B. *Why Significant:* Within the limits of a demonstration program, the impact will be on medically underserved populations. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 328, Public Health Service Act. E. *Legal Basis:* 42 U.S.C. 254a-1. F. *Chronology:* Notice of Decision to Develop Regulations was published 4/13/79.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM July-September 1980.
PHS-40—Project Grants for Community Health and Migrant Health.	A. *Description:* Regulations will implement statutory provisions requiring that pharmaceutical services be mandatory, some supplemental services be defined as priority services, and allowing grantees to retain half of earned income. Migrant high impact area is reduced from 6,000 migrants to 4,000. B. *Why Significant:* These regulations have impact on the primary care delivery capacity in medically underserved areas. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Sections 329 and 330 of the Public Health Service Act, as amended by Pub. L. 95-626. E. *Legal Basis:* 42 U.S.C. 247 and 254c. F. *Chronology:* NOI published 4/13/79.	James J. Corrigan; Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM July-September 1980.
PHS-41—Demonstration Health and Nutrition Projects.	A. *Description:* These regulations will implement a statute for multicounty health and demonstration projects in economic development regions. B. *Why Significant:* These projects will provide health and nutrition services and contribute to regional economic development. C. *Regulatory Analysis:* Not needed. D. *Need:* To implement Section 516 of the Regional Development Act of 1975. E. *Legal Basis:* Section 516, Regional Development Act of 1975. F. *Chronology:* None.	James J. Corrigan; Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM October-December 1980.
PHS-42—Project Grants to States for Hypertension Services.	A. *Description:* Regulations will implement statutory amendments changing formula grants to project grants, requiring greater accountability and more effective service programs. B. *Why Significant:* State hypertension programs previously funded under formula grants will now be funded under project grants, requiring greater accountability for Federal funds. C. *Regulatory Analysis:* Not required. D. *Need:* To implement Section 317 of the Public Health Service Act, as amended by Pub. L. 95-626. E. *Legal Basis:* 42 U.S.C. 247b. F. *Chronology:* Notice of Intent published 4/13/79. Announcement requesting grant applications published 6/27/79.	James J. Corrigan; Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	NPRM July-September 1980.
PHS-43—Program Grants for Black Lung Clinics.	A. *Description:* These regulations will implement a statute providing project grants for diagnostic and treatment services to active and inactive coal miners who have respiratory impairments. B. *Why Significant:* Regulations will facilitate more efficient delivery of services to a population in need, reflecting lessons learned from previous implementation authority, and adopt the recommendations of the 1975 American Lung Association task force. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the provisions of Section 427(a) of the Federal Mine Safety and Health Act of 1977. E. *Legal Basis:* 30 U.S.C. 937(a). F. *Chronology:* Notice of decision to Develop Regulations published 6/13/79. NPRM publised February 12, 1980 (45 FR 9290). Comment period closed April 14, 1980.	James J. Corrigan, Director, Division of Policy Development, BCHS, Rm. 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1034.	Final Rule July-September 1980.

Department of Health and Human Services Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
PHS–45—Grants for Community Mental Health Centers; requirements for grants, application for grants, and State plans.	A. *Description:* This rule established requirements for grants and applications for grants under the Community Mental Health Centers Act (other than Part D relating to Rape Prevention and Control). Also included are requirements for the development, submission, and approval of State Plans. B. *Why Significant:* The regulations provide a regulatory basis for the administration of the Community Mental Health Centers program including steps an applicant must take and requirements an applicant must meet when filing an application and operating a program. In addition, the regulations provide for the preparation and filing of State plans for comprehensive mental health services and the review and approval of these plans by the Secretary, a step which must be successfully completed by each State before awards may be made to any applicant in that State. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are required to implement the Community Mental Health Centers Act (except Part D), as amended. Section 236 of the Community Mental Health Centers Act establishes standards for regulations issued by the Secretary for implementing the Community Mental Health Centers program. E. *Legal Basis:* Community Mental Health Centers Act, except Part D, (42 U.S.C. 2689–2689p, 2689r–2689aa) as amended by Title III of Pub. L. 94–63 (89 Stat. 308–327, 329–333), section 308 of Pub. L. 95–83 (91 Stat. 395–396), Title I of Pub. L. 95–622 (92 Stat. 3412–3420), and section 8 of Pub. L. 96–32 (93 Stat. 85). F. *Chronology:* The "Interim Rule" was published June 30, 1976 (41 FR 26906) with a 60-day comment period. The "Proposed Implementation" was published November 2, 1976 (41 FR 48282) with a 45-day comment period.	Lindsley Williams, Acting Director, Office of Program Development and Analysis, National Institute of Mental Health, Parklawn Bldg., Room 17C–17, Rockville, Maryland 20857, (301) 443–3175.	Final Rule, July–September 1980.
PHS–46—Grants for Drug Abuse Prevention, Treatment, and Rehabilitation; requirements for State participation in formula grants.	A. *Description:* These regulations establish requirements for receiving and administering formula grants to assist States in designing, establishing, conducting, coordinating, and evaluating projects for the development of more effective training, treatment, rehabilitation, and research projects to deal with drug abuse and drug dependence. B. *Why Significant:* To receive an allotment, a State must submit to and have approved by the Secretary a State plan or modification of a State plan which meets the requirements specified in the statute and these regulations. (Formula grants are currently being awarded under National Institute on Drug Abuse guidelines developed in 1973 and updated annually.) C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are required to implement section 409 of the Drug Abuse Office and Treatment Act of 1972, as amended. The regulations required by section 409(c)(1)(B)(iii) were published as a Final Rule on June 24, 1976 (41 FR 26012). E. *Legal Basis:* Section 409 of Pub. L. 92–255, the Drug Abuse Office and Treatment Act of 1972, as amended by Pub. L. 94–237 (90 Stat. 245–247), Pub. L. 94–371 (90 Stat. 1040), Pub. L. 95–83 (91 Stat. 397), and Pub. L. 95–461 (92 Stat. 1268–1269) (21 U.S.C. 1176). F. *Chronology:* Notice of Proposed Rulemaking was published August 28, 1973 (38 FR 22968) with a 30-day comment period. A second Notice of Proposed Rulemaking was published January 14, 1977 (42 FR 2986) with a 45-day comment period.	Nancy Soulen, Legal Assistant, Office of Director, National Institute on Drug Abuse, Room 10–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6482.	Final Rule, July–September 1980.
PHS–48—Confidentiality of Alcohol and Drug Abuse Patient Records; minimum requirements for protecting.	A. *Description:* These regulations apply to the records of the identity, diagnosis, prognosis, or treatment of alcohol and drug abuse patients. They require that records be kept confidential and be disclosed only (1) with the written consent of the patient, (2) pursuant to an authorizing court order based upon a finding of good cause, or (3) without either a written consent or an authorizing court order in the following limited circumstances: for a medical emergency, for the conduct of scientific research, an audit, or program evaluation. B. *Why significant:* This rule applies to alcohol and drug abuse patient records maintained in connection with any alcohol abuse or drug abuse program conducted, regulated, or directly or indirectly assisted by any department or agency of the United States. It implements statutory requirements which encourage alcohol and drug abusers to seek treatment by removing the fear that attempts to enroll in treatment programs would lead to disclosure to employers and other members of the public or lead to police harassment and/or arrest. C. *Regulatory Analysis.* Not required. D. *Need:* These regulations are required by section 333(g) of the Comprehensive Alcohol Abuse and alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, and by section 408(g) of the Drug Abuse Office and Treatment Act of 1972, as amended. Rewrite of these regulations will fulfill the Department's commitment to make regulations clearer and more concise and will take into consideration the Departments experience with the regulation over the past four years. E. *Legal Basis:* Section 408 of Pub. L. 92–255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) as amended by section 303 of Pub. L. 93–282 (88 Stat. 137); and section 333 of Pub. L. 91–616, the Comprehensive Alcohol Abuse and alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, (42 U.S.C. 4582), as amended by section 122(a) of Pub. L. 93–282 (88 Stat. 131). F. *Chronology:* Final Rule, published July 1, 1975 (40 FR 27802), has been reviewed under Operation Common Sense and a decision made to recodify. Notice of Decision to develop, Regulations published January 2, 1980 (45 FR 53) with a 60 day comment period.	Judith T. Galloway, Legal Assistant, Alcohol, Drug Abuse, and Mental Health Administration, Room 13C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–3200.	Regulations proposal revision, July–September 1980.
PHS–49—Designation of Health Manpower Shortage Areas.	A. *Description:* To establish criteria for the designation of geographic areas, pupulation groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. B. *Why significant:* Identifies health manpower shortage areas. C. *Regulatory Analysis.* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 1586. F. *Chronology:* Interim-final was published January 10, 1978 (43 FR 1586). Comment period closed Feb. 24, 1978.	Richard Lee, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436–6764.	Final Rule July–September 1980.

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Title	Summary	Contact	Decision quarter
PHS-50—Criteria for Payment of Tuition and Other Educational Costs.	A. *Description:* To establish criteria to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible under the national Health Service Corps Scholarship Program, and scholarships for first-year students of exceptional financial need. B. *Why significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis.* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 55261. F. *Chronology:* NPRM published November 27, 1978 (43 FR 55261). The comment period closed Jan. 26, 1979.	Donald C. Parks, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6560.	Final Rule July-September 1980.
PHS-51—Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs.	A. *Description:* To govern grants to schools of public health or nonprofit private educational entities to support traineeships for students in the graduate education programs of these entities in public health. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 40862. F. *Chronology:* Interim-final was published September 13, 1978 (43 FR 40862). The comment period closed November 13, 1978.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-52—Traineeship Grants for Health Administration, Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions other than Schools of Public Health.	A. *Description:* To govern grants to Public or nonprofit private educational entities (excluding schools of public health) to support traineeships in graduate educational programs of such entities in health administration, hospital administration, or health policy analysis and planning. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 39384. F. *Chronology:* Interim-final was published September 5, 1978 (43 FR 39384). The comment period closed November 6, 1978.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-53—National Health Services Corps Scholarships.	A. *Description:* The regs are applicable to the award of scholarships under the National Health Service Corps Scholarships program to students receiving academic training in medicine, osteopathy, dentistry, and other health professions in order to assure an adequate supply of trained health professionals to improve the delivery of health services in health manpower shortage areas. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs. are needed to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 43713. F. *Chronology:* Interim-final was published September 27, 1978 (43 FR 43713). The comment period closed November 27, 1978.	Alice Swift, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6788.	Final Rule April-June 1980.
PHS-54—Scholarships for First-Year Students of Exceptional Financial Need.	A. *Description:* To govern grants to health professions schools to provide scholarships for full-time first-year students of exceptional need. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs. are needed to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 37199. F. *Chronology:* Interim-final was published August 22, 1978 (43 FR 37199). The comment period closed October 22, 1978.	Alice Swift, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6788.	Final Rule July-September 1980.
PHS-55—Health Professions Capitation Grants.	A. *Description:* To govern grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of those schools. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 44 FR 24889. F. *Chronology:* NPRM was published April 27, 1979 (44 FR 24889). The comment period closed June 26, 1979.	John Westcott, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6564.	Final Rule July-September 1980.
PHS-56—Project Grants for Establishment of Departments of Family Medicine.	A. *Description:* To govern grants to schools of medicine and osteopathy to meet the projects to establish and maintain academic administrative units to provide clinical instruction in family medicine. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 U.S.C. 295g F. *Chronology:* None.	Kenneth Moritsugu, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	NPRM July-September 1980.
PHS-57—Area Health Education Centers.....	A. *Description:* To govern programs to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and to encourage the regionalization of educational responsibilities of health professions schools. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 55242. F. *Chronology:* Interim-final published November 27, 1978 (43 FR 55242). The comment period closed Jan. 26, 1979.	Kenneth Moritsugu, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule July-September 1980.
PHS-58—Grants for Residency, Training in General Internal Medicine or General Pediatrics.	A. *Description:* To govern grants for residency programs in general internal medicine or general pediatrics. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required.	Kenneth Moritsugu, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule July-September 1980.

Department of Health and Human Services Semiannual Regulations Agenda and Review List—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 FR 59500. F. *Chronology:* Interim-final was published November 18, 1977 (42 FR 59500). The comment period closed January 17, 1978.		
PHS-59—Grants for Training in Family Medicine.	A. *Description:* The regs are for grants to assure the institutionalization of family medicine within the schools of medicine and osteopathy, to encourage students, through the context of educational programs and through the contact with role model family physician to pursue careers in family medicine. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 47694. F. *Chronology:* Interim-final was published October 16, 1978 (43 FR 47694). The comment period closed December 15, 1978.	Kenneth Moritsugu, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule July-September 1980.
PHS-60—Educational Assistance to Individuals from Disadvantaged Backgrounds.	A. *Description:* To govern grants to provide educational assistance to individuals from disadvantaged backgrounds to undertake training and education to enter the health professions or allied health professions. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need.* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 39380. F. *Chronology:* Interim-final was published September 5, 1978 (43 FR 39380). The comment period closed November 6, 1978.	Kinzo Yamamoto, Office of Health Resources Opportunity, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-7230.	Final Rule July-September 1980.
PHS-61—Grants to Schools of Medicine, Dentistry, Public Health, Osteopathy, Optometry, Podiatry, Pharmacy, and Veterinary Medicine for Start-up Assistance.	A. *Description:* To govern grants to provide start-up assistance for initiating new schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry. B. *Why significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 USC 295g-8.	John Westcott, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6574.	NPRM July-September 1980.
PHS-62—Health Professions, Financial Distress Grants.	A. *Description:* To implement the awarding of grants to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy and public health in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 44 FR 17159. F. *Chronology:* Interim-final published March 21, 1979 (44 FR 17159). The comment period closed May 21, 1979.	James Secrest, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6558.	Final Rule July-September 1980.
PHS-63—Interdisciplinary Team Training and Curriculum Development for Health Manpower Training.	A. *Description:* To establish requirements for grants for interdisciplinary team training among schools in various health disciplines and for curriculum development in various areas related to health manpower. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 USC 295g-7.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	NPRM July-September 1980.
PHS-64—Grants for Training in Emergency Medical Services.	A. *Description:* To set forth requirements for grants for training programs in emergency medical services. B. *Why significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 42 FR 46523. F. *Chronology:* Interim-final was published September 16, 1977 (42 FR 46523). The comment period closed November 15, 1977.	Kenneth Moritsugu, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6418.	Final Rule July-September 1980.
PHS-65—Grants for Graduate Programs in Health Administration.	A. *Description:* To implement the Secretary's authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support the health administration, hospital administration, and health planning graduate educational programs of such entities. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 26443. F. *Chronology:* Interim-final was published June 20, 1978 (43 FR 26443). The comment period closed August 21, 1978.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-66—Special Project Grants for Graduate Programs in Public Health.	A. *Description:* To implement the Secretary's authority to make grants to schools of public health and other public or nonprofit educational entities for projects to develop new graduate programs or to expand existing programs in biostatistics, epidemiology, health administration, health planning, health policy analysis and planning, environmental or occupational health and dietetics and nutrition. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 27837. F. *Chronology:* Interim-final published June 27, 1978 (43 FR 27837). Comment period closed August 28, 1978.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838..	Final Rule July-September 1980.

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Title	Summary	Contact	Decision quarter
PHS-67—Grants for Allied Health Projects.....	A. *Description:* To implement the Secretary's authority to make grants to a) establish regional or State systems to assure that allied health and nursing personnel needs in the area are met by coordinating and managing allied health and nursing education and training among educational institutions; b) establish or improve recruitment, training and retraining programs for allied health personnel; and c) establish career ladders and advancement programs for practicing allied health personnel. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 59530. F. *Chronology:* NPRM was published Dec. 21, 1978 (43 FR 59530). The comment period closed Feb. 20, 1979.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-68—Grants for Traineeships for Advanced Training of Allied Health Personnel.	A. *Description:* To set forth requirements for grants to public or private nonprofit institutions to meet the costs of traineeships for the advanced training of allied health personnel to a) teach in allied health training programs, or b) serve in administrative or supervisory capacities. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Public Health Service Act. E. *Legal Authority:* 43 FR 29783. F. *Chronology:* Interim-final was published July 11, 1978 (43 FR 29783). The comment period closed Sept. 11, 1978.	David B. Hoover, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6838.	Final Rule July-September 1980.
PHS-69—Grants for Nurse Practitioner Traineeship Programs.	A. *Description:* To set forth requirements for grants to schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to meet the costs of traineeships for the training of nurses who reside in health manpower shortage areas having shortages of primary medical care manpower. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs are needed to implement the Public Health Service Act. E. *Legal Authority:* 2 USC 296m. F. *Chronology:* Interim final regulations published May 6, 1980 (45 FR 29803). The Comment period closed July 7, 1980.	Dr. Mary Hill, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6681.	Final Rule October-December 1980.
PHS-70—Grants for Traineeships for the Advanced Training of Professional Nurses.	A. *Description:* To govern grants to public and nonprofit institutions to cover the costs of traineeships for the advanced training of professional nurses. B. *Why Significant:* Promotes the adequate supply and equitable distribution of health manpower throughout the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The Department has decided that regs are needed to implement the Public Health Service Act. E. *Legal Authority:* 42 USC 297.	Dr. Mary Hill, Bureau of Health Professions, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6681.	NPRM July-September 1980.
PHS-72—National Guidelines for Health Planning (Goals).	A. *Description:* The guidelines consist of National Health Planning goals with respect to health status, health promotion, and disease prevention, and access to services. B. *Why Significant:* Sets goals for health planning. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act. E. *Legal Authority:* 42 USC 300k-1. F. *Chronology:* Notice of availability of Draft Regulations October 19, 1979 (44 FR 60342).	James Stockdill, Office of Planning, Evaluation, and Legislation, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-7270.	NPRM July-September 1980.
PHS-73—Health Systems Agency Review of Certain Proposed Uses of Federal Health Funds.	A. *Description:* Amends regulations establishing requirements governing the review and approval or disapproval by Health Systems Agencies of certain proposed uses of Federal funds. B. *Why significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published May 9, 1978 (43 FR 19988) Final published August 10, 1979 (44 FR 47064). Regulations to be amended to implement the Health Planning and Resource Amendments of 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM July-September 1980.
PHS-74—Health Systems Agency Reviews of Certain Proposed Uses of Federal Funds; Proposed Uses for Research and Training.	A. *Description:* Establishes requirements governing the review and approval or disapproval by health systems agencies of certain proposed uses of Federal health funds through research and training grants and contracts. B. *Why significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 42 USC 300 1-2. F. *Chronology:* None.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM October-December 1980.
PHS-75—Health Systems Agency and State Agency Reviews of the Appropriateness of Existing Institutional Health Services.	A. *Description:* Establishes minimum procedures and criteria for health systems agencies to review the appropriateness of all existing institutional health service in their areas. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM, July-September 1980.

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Title	Summary	Contact	Decision quarter
	D. *Need:* Required by statute to implement Health Planning and Resources Development Act of 1976 and Amendments of 1979. E. *Legal Authority:* 43 FR 21274 and the Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM published May 16, 1978 (43 FR 21274) The comment period closed June 30, 1978. Final regulations published December 11, 1979 (44 FR 71754). Regulations to be amended to implement the Health Planning and Resource Amendments of 1979.		
PHS-76—Designation of Health Systems Agencies.	A. *Description:* Amends regulations establishing criteria for the designation of health systems agencies. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published October 17, 1975 (43 FR 48802). The comment period closed November 17, 1975. The final was published March 26, 1976 (41 FR 12812). Regulations to be amended to implement the Health Planning and Resource Amendments of 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM, July-September 1980.
PHS-77—Designation of States Health Planning and Development Agencies.	A. *Description:* Amends regulations establishing criteria for the designation of State Health Planning and Development Agencies. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* NPRM was published March 19, 1976 (41 FR 11688). Comment period closed May 3, 1976. Interim-final published June 3, 1976 (41 FR 22524). Final was published March 10, 1978 (43 FR 10100) Regulations to be amended to implement Health Planning and Resource Development Amendments of 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	NPRM July-September 1980.
PHS-78—Certificate of Need and Review of New Institutional Health Services.	A. *Description:* Amends regulations establishing criteria for certificate and need of new institutional health services. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. *Legal Authority:* The Health Planning and Resources Development Amendments of 1979. F. *Chronology:* General Notice regarding intent to develop amendments to Con regulations published February 22, 1980 (45 FR 12174). NPRM published March 26, 1980 (45 FR 20026). Comment period closed May 27, 1980.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule, July-September 1980.
PHS-79—Inclusion of Computed Tomographic Scanning Services under Certificate of Need.	A. *Description:* Amends regulations which establish requirements for State certificate of need programs by requiring review under certain circumstances of diagnostic services provided by fixed or mobile computed tomographic scanning equipment. B. *Why significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 44 FR 24429. F. *Chronology:* Interim-final was publiished April 25, 1979 (44 FR 24429). Comment period closed June 25, 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule to be incorporated into certificate of need amendments (PHS-78)
PHS-80—Inclusion of Computed Tomographic Scanning Services under Capital Expenditure Review.	A. *Description:* Amends regulations for the capital expenditure review program by establishing rules regarding reviews of proposed capital expenditures for computed tomographic scanner services. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 44 FR 24428. F. *Chronology:* Interim-final regulations were published April 25, 1979. The comment period closed June 25, 1979.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Final Rule to be incorporated into limitation on Federal participation for Capital Expenditures. (PHS-81)
PHS-81—Limitation on Federal Participation for Capital Expenditures.	A. *Description:* Amends regulations for the capital expendure review program to take into account certain requirements respecting 1122 reviews imposed by Title XV of the Public Health Service Act. B. *Why Significant:* Implements one aspect of the Federal health planning program to promote access to health care services and control health care costs through State and local review of health services and expenditures. C. *Regulatory Analysis:* Not required. D. *Need:* Required by statute to implement the Health Planning and Resources Development Act of 1976. E. *Legal Authority:* 41 FR 11688. F. *Chronology:* NPRM published March 19, 1976 (41 FR 11688). The comment period closed May 3, 1976.	Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning HRA, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, (301) 436-6850.	Interm Final Rule, July-September 1980.

PHS-83—National Institutes of Health Center Grants.	A. Description: These regulations would provide for the operation of NIH Research and Demonstration Centers. They would replace similar rules that now apply to centers of the National Heart, Lung, and Blood Institute. B. Why significant: Legislation has authorized research and demonstration centers for other diseases such as arthritis and diabetes. C. Regulatory Analysis: Not required. D. Need: To implement legislation that extend to other NIH programs the present regulations regarding research and demonstration centers for the National Heart, Lung, and Blood Institute. E. Legal Authority: Section 415(b) of the Public Health Service Act; Pub. L. 93-354; and Pub. L. 93-640. F. Chronology: Notice of Decision to Regulate was published July 17, 1978 (43 FR 31583).	Lowell D. Peart, NIH Regulations Officer, Division of Management Policy, National Institutes of Health, Bethesda, MD 20205, Phone: (301) 496-4606.	NPRM October-December 1980.

Center for Disease Control

Title	Summary	Contact	Decision quarter
PHS-84—Clinical Laboratories: Revision of Quality Control Regulations to include Additional Requirements for Alpha-fetoprotein Testing (42 CFR Parts 74 and 405).	A. Description: Current regulations include quality control and testing requirements of a general nature applicable to measurement of alpha-fetoprotein (AFP) levels. The revision of these regulations proposes to amend the quality control regulations applicable to clinical laboratories by including additional quality control and testing requirements for procedures which measure AFP levels in mid-pregnancy maternal sera, plasma, and amniotic fluids. B. Why significant: To assure the safe and effective use of AFP testing kits. C. Regulatory analysis: Not required. D. Need: The Food and Drug Administration has decided to announce its intent to approve for marketing commercial test kits for use by clinical laboratories in measuring AFP levels in maternal sera, plasma, and amniotic fluid in prenatal detection of neural tube defects. Additional quality control and testing requirements are being proposed in order to assure the safe and effective use of AFP testing kits. E. Legal Basis: For laboratories licensed under the Clinical Laboratories Improvement Act of 1967, see Section 353 of the Public Health Service Act (42 U.S.C. 263a). For laboratories certified under the Medicare program, see Section 1961(s)(3), (10), and (11) of the Social Security Act (42 U.S.C. 1395x(s)(3), (10), and (11), and Section 1861(e)(9) of the Social Security Act (42 U.S.C. 1395x(e)(9). F. Chronology: Notice of Decision to Develop Regulations published on April 15, 1980 (45 FR 25412).	Dr. Joseph F. Boutwell, Deputy Director, Bureau of Laboratories Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Phone: (404) 329-3263, FTS: 236-3263.	NPRM July-September 1980.
PHS-85—Health Education-Risk Reduction Grants—Amendments to Include Programs to Discourage Smoking and the Use of Alcoholic Beverages Among Children and Adolescents (42 CFR Part 51g).	A. Description: Establishes grant programs to discourage children and youth from smoking and alcohol use, and implements Section 402(a)(2) of the Health Services and Centers Amendments of 1978. The new grant programs will be carried out in conjunction with the Health Education-Risk Reduction grants, initiated in 1979, as authorized under Section 1703(a) of the Public Health Service Act. B. Why significant: Provides a regulatory base to award grants to provide preventive health education services related to tobacco and alcohol to children and young people. C. Regulatory analysis: Not required. D: Need: To implement legislation to establish new grants programs authorized under Section 402(a)(2) of the Health Services and Centers Amendments of 1978. E. Legal Basis: Section 1703(a) of the Public Health Service Act (42 U.S.C. 300u-2); and Section 402(a)(2) of the Health Services and Centers Amendments of 1978 (42 U.S.C. 247b-2). F. Chronology: Notice of Decision to Develop Regulations published February 13, 1980 (45 FR 9755).	Mr. Billy Griggs, Deputy Director, Bureau of Health Education, Center for Disease Control, Atlanta, Georgia 30333, Phone: (404) 329-3111, FTS: 236-3111.	NPRM July-September 1980.
PHS-86—NIOSH Investigations of Places of Employment (42 CFR Part 85).	A. Description: This rule proposes to integrate existing provisions pertaining to NIOSH health hazard evaluations and research investigations (42 CFR Parts 85 and 85a) into a single regulation as part of the Department's "Operation Common Sense" program. Procedures for investigations will be revised as necessary based on past experience in conducting investigations. B. Why significant: To eliminate duplicate provisions and possible procedural errors, and to permit current employees greater access to the health hazard evaluation program. C. Regulatory analysis: Not required. D. Need: To comply with "Operation Common Sense" and to update procedures. E. Legal Basis: Occupational Safety and Health Act of 1979 (29 U.S.C. 651 et seq.). and Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.) F. Chronology: Notice of Decision to Develop Regulations published on December 4, 1979 (44 FR 69689).	Philip J. Bierbaum, Deputy Director, Division of Surveillance, Hazard Evaluations, and Field Studies, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Phone: (513) 684-2422, FTS: 684-2422.	July-September 1980.
PHS-87—NIOSH Grant Regulations; Conformance with Part 74 (42 CFR Parts 55, 86, and 87).	A. Description: The following grant regulations are being revised to conform them to 45 CFR Part 74 and to delete provisions that duplicate or conflict with 45 CFR Part 74: (1) Grants for research and demonstrations relating to occupational safety and health; (2) grants for education programs in occupational safety and health; and (3) grants for advancement of health in coal mining. B. Why significant: These regulations provide the regulatory base for these grants programs. C. Regulatory analysis: Not required. D. Need: to conform the regulations to 45 CFR Part 74. E. Legal Basis: (1) Occupational Safety and Health Act of 1970 (9 U.S.C. 669(a)(1)); (2) Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)); and (3) Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et. seq.).	Ms. Mary L. Flint, Regulations Specialist, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8-11, Rockville, Maryland 20857, Phone: (301) 443-4493, FTS: 443-4493.	Final rule July-September 1980.

Center for Disease Control—Continued

Title	Summary	Contact	Decision quarter
	F. Chronology: Notice of Proposed Rulemaking published on March 13, 1980 (45 FR 16209).		
PHS-88—Fees for Direct Training, Center for Disease Control (42 CFR Part 65).	A. Description: Under Section 311(b) of the Public Health Service Act, the Center for Disease Control provides technical training to help ensure that health workers throughout the country possess the necessary skills and knowledge to achieve the objectives of disease control programs. The existing regulation sets forth a fee policy for this training and provides for a fee schedule. A waiver procedure to permit States time to include training costs in their budgets was included in the final rule. Subsequent amendments to legislation eliminated the need for a waiver of fees. Therefore, the proposed revision will delete this requirement in the regulation. B. Why significant: The proposed revision will clarify the policy regarding tuition for training. It will specify who shall pay tuition for training, and the outdated waiver provision will be removed from the existing regulation. C. Regulatory analysis: Not required. D. Need: To update the existing regulation to delete the procedure requiring written requests for waiver of fees. Section 311(b) of Public Health Service Act was amended by Public Law 94-317 (June 1976) to eliminate the need for waivers. E. Legal Basis: Section 311(b) of the Public Health Service Act (42 U.S.C. 243). F. Chronology: The Regulations Proposal is the first step in the development of the proposed amendment.	Dr. Seth N. Leibler, Deputy Director, Bureau of Training, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Phone: (404) 262-6671, FTS: 236-6671.	Regulations Proposal July-September 1980.
PHS-89—Clinical Laboratories—Deletion of Requirement for License Fees (42 CFR Part 74).	A. Description: The regulation requiring payment of license fees for laboratories licensed under the Clinical Laboratories Improvement Act of 1967 was recently amended to eliminate the requirement for payment of license fees. This amendment was issued as an interim final rule so that the amendment would be in effect by the time the licensure cycle began in March 1980. B. Why significant: The requirement for payment of license fees was eliminated because the fees collected did not offset administrative costs for collecting the fees. C. Regulatory analysis: Not required. D. Need: If the requirement for payment of license fees had not been eliminated, license fees would have continued to be collected. E. Legal Basis: Clinical Laboratories Improvement Act of 1967 (42 U.S.C. 263a(d)(3)). F. Chronology: Final rule (with subsequent comment period) was published April 22, 1980 (45 FR 26960). Comment period ended May 22, 1980.	Dr. Louis C. LaMotte, Director, Licensure and Proficiency Testing Division, Bureau of Laboratories, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Phone: (404) 329-3824, FTS: 236-3824.	Final Rule July-September 1980.
PHS-90—Possession, Use, and Transport of Smallpox and Whitepox Viruses.	A. Description: Establishes regulations restricting the possession, use, and transportation of smallpox (variola major and variola minor) and whitepox viruses. B. Why significant: Natural transmission of smallpox was last reported in October 1977 and the disease was declared eradicated by the World Health Organization in October 26, 1979. Smallpox and whitepox viruses now exist only in laboratories. The Foreign Quarantine regulations (42 CFR, Section 71.156) authorize restrictions on the importation or subsequent receipt by transfer of imported materials. Similar authority regulating the possession, use, or transportation of indigenous strains of smallpox virus does not exist. C. Regulatory analysis: Not required. D. Need. Required by statute to implement the final consolidation of all smallpox and whitepox viruses and all activities with these agents in a single national facility located at the Center for Disease Control, Atlanta, Georgia. E. Legal Basis: Section 361 of the Public Health Service Act (42 U.S.C. 264). F. Chronology: The RP is the first step in the regulations development process.	Dr. John H. Richardson, Director, Office of Biosafety Center for Disease Control, 1600 Clifton Rd., N.E., Atlanta, Georgia 30333, Phone: (404) 329-3885, FTS: 236-3885.	Regulations Proposal October-December 1980.
PHS-91-Indian Health	A. Description: Subpart A, Scope and Definition, and Subpart B, Availability of Services, are revised as part of the Department's "Operation Common Sense" to make them clearer. Subpart D, Contagious and Infectious Diseases, is being proposed for recision because it is no longer necessary given present day treatment modalities. B. Why Significant: These are technical amendments. C. Regulatory Analysis: Not required. D. Need: Required by Executive Order No. 12044. E. Legal Basis: 25 U.S.C. 13 (Snyder Act) and 42 U.S.C. 2001 (Transfer Act). F. Chronology: NOI published February 7, 1980. G. Citation: 42 CFR, Subparts A, B, and D.	Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301-443-1116).	NPRM July-September 1980.

Health Resources Administration

Title	Summary	Contact	Decision quarter
PHS-92—Redesignation of Health Service Areas.	A. Description: Sets down criteria for revising health service area boundaries. B. Why Significant: May result in changes to health service area boundaries. C. Regulatory Analysis: Not required. D. Need: Required by statute to implement the Health Planning and Resources Development Amendments of 1979. E. Legal Authority: The Health Planning and Resources Development Amendments of 1979. F. Chronology: None.	Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, Health Resources Administration, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6850.	NPRM July-September 1980.

Health Resources Administration—Continued

Title	Summary	Contact	Decision quarter
PHS-93—Funding of Health Systems Agencies—General.	A. Description: Provides information on funding of fully and conditionally designated Health System Agencies. Conditionally designated agencies will no longer be funded using the same formula as fully designated agencies. B. Why significant: Impacts funding of HSAs. C. Regulatory Analysis: Not required. D. Need: To change from a formula to a discretionary method of funding conditionally designated HSAs and to incorporate statutory changes for funding fully designated HSAs. E. Legal Authority: The Health Planning and Resources Development Act of 1976 and Amendments of 1979. F. Chronology: NPRM was published October 17, 1975 (40 FR 48802). The comment period closed November 17, 1975. The final was published March 26, 1976 (41 FR 12812).	Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, Health Resources Administration, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6850.	NPRM July-September 1980.
PHS-94—Discretionary Funding of Health Systems Agencies.	A. Description: Allows up to five percent of the total appropriation for HSAs to be used to supplement the base grant of selected HSAs to assist them in meeting extraordinary expenses, such as those resulting from interstate status or from serving a large geographic area. B. Why significant: Impacts funding of HSAs. C. Regulatory Analysis: Not required. D. Need: To implement the Health Planning and Resources Development Amendments of 1979. E. Legal Authority: The Health Planning and Resources Development Amendments of 1979. F. Chronology: None.	Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, Health Resources Administration, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6850.	NPRM July-September 1980.
PHS-95—National Guidelines for Health Planning (Standards).	A. Description: The guidelines consist of national health planning standards respecting the supply, distribution and organization of health resources. B. Why Significant: Sets standards for health planning. C. Regulatory Analysis: Not required. D. Need: Required by the Health Planning and Resources Development Act of 1976 and Amendments of 1979 to issue resource standards by regulation and to annually review and revise these standards as necessary. E. Legal Authority: 42 USC 300k-1 and Health Planning and Resources Development Amendments of 1979. F. Chronology: None.	James Stockdill, Director, Office of Planning, Evaluation and Legislation, Health Resources Administration, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-7270.	Notice of Availability of Draft Regulations July-September 1980.
PHS-96—Tax-exempt Refinancing of Health Facilities Construction Loans.	A. Description: Provides criteria for determining "the best financial interest of the United States" as it relates to tax-exempt refinancing of health facilities construction loans. B. Why Significant: Impacts tax revenues received by U.S. Treasury. C. Regulatory Analysis: Not required. D. Need: The Department has decided that regulations are necessary because of continuing discussions as to the appropriateness of tax-exempt refinancing. E. Legal Authority: 42 U.S.C. 291j-3; 42 U.S.C. 300q-2; 42 U.S.C. 293i F. Chronology: Notice of moratorium on approving "refinancing" of certain Federally guaranteed loans published in the FEDERAL REGISTER on October 15, 1979 (44 FR 59291).	William R. Berry, Bureau of Health Facilities, Health Resources Administration, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-7702.	NPRM July-September 1980.
PHS-97—Governing Body Requirements of Health Systems Agencies.	A. Description: Amends composition requirements and the characteristics members must have to meet these requirements, and mandates a technical assistance program for governing body members as well as selection procedures B. Why Significant: Impacts the composition of governing bodies C. Regulatory Analysis: Not required. D. Need: Required by the Health Planning and Resources Development Amendment of 1979. E. Legal Authority: Health Planning and Resources Development Amendment of 1979 F. Chronology: NPRM published May 26, 1978 (43 FR 22858). The comment period closed July 10, 1978	Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, Health Resources Administration, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6850.	Revised NPRM July-September 1980.
PHS-98—Drug Abuse Project Grant Program	A. *Description:* These regulations would establish requirements for drug abuse treatment and prevention programs. An eligible applicant for the treatment and rehabilitation services program is the institution, organization, agency, department or other accountable entity of State government that assumes legal and financial responsibility for the administration and performance of the Statewide Services Grant Program. Applications for the State Grants Program are limited to the States and jurisdictions (the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territories of the Mariana Islands, Virgin Islands, Guam, and American Samoa) through their respective Single State Agencies for Drug Abuse Prevention or the officially designated State unit responsibile for drug abuse prevention programs. B. *Why Significant:* This rule would implement Section 410 of P.L. 92-255, the Drug Abuse Office and Treatment Act of 1972, as amended, and replace the current guidelines. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations would implement Section 410 of the Drug Abuse Office and Treatment Act of 1972, as amended. Further, the Public Health Service Grants Administration Manual requires PHS agencies to publish in the FEDERAL REGISTER program rules, program priorities for funding and statements regarding the availability of funds. E. *Legal Basis:* Section 410 of P.L. 92-255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1177) as amended by P.L. 94-237 (90 Stat. 247-248), P.L. 94-371 (90 Stat. 1040-1041), and P.L. 95-461 (92 Stat. 1268) (21 U.S.C. 1177). F. *Chronology:* None.	Nancy Soulen, Legal Assistant, Office of the Director, National Institute on Drug Abuse, Room 10-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-6482.	NPRM December 1980.

Health Care Financing Administration—Significant Regulations

Title	Summary	Contact	Decision quarter
HCFA-2—Medicare-Medicaid Programs: Waiver of Liability—Procedures Waiving Liability.	A. *Description:* This regulation would propose criteria for determining when a patient or provider would not be held liable for knowing that the services were medically unnecessary or otherwise inappropriate, before the services have been disapproved by PSROs for Medicare and Medicaid payments. B. *Why Significant:* The regulation would reduce waste by eliminating Federal payments for unnecessary care. In addition, there is strong public interest in completing regulations for PSROs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 and 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1158(a) and 1158(d) of the Social Security Act; Pub. L. 92-603; Sec. 22 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	Marion Lebron, Senior Analyst, IRB, DPR, HSQB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, Md 21207, 301-594-3980.	Proposed Rule July-September 1980.
HCFA-3—Medicare/Medicaid Program: Professional Standards Review Organizations (PSROs) Reconsideration and Appeals—Procedures for Reconsiderations.	A. *Description:* This regulation contains procedures for the reconsideration of the medical necessity determinations of PSROs and the review of such reconsiderations by Statewide Professional Standards Review Councils. B. *Why Significant:* This regulation would clarify the process for appealing PSRO determinations. In addition, there is strong public interest in completing regulations for PSROs. C. *Regulatory Analysis:* Not required. D. *Need:* To implement 1972 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1159(a) of the Social Security Act (42 U.S.C. 1320c-8); Sec. 249F of Pub. L. 92-603. F. *Chronology:* NPRM was published on March 5, 1979 (44 FR 12067). The comment period closed on May 4, 1979.	Paul Machove, Program Analyst, IRB, DPR, HSQB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207 301-594-3980.	Final Rule July-September 1980.
HCFA-4—Medicare/Medicaid Program: Hospital Utilization Review—Revised Requirements and Procedures for Utilization Review.	A. *Description:* The regulations would revise requirements and procedures for utilization review in health care institutions participating in Medicare and Medicaid programs. These regulations would provide for review of the medical necessity of admissions and continued stays, the appropriateness and quality of patient care, and the effectiveness of utilization of facility and health professional services. B. *Why Significant:* This regulation would assure quality care by establishing requirements for conducting concurrent and retrospective review of the health care provided to Medicare beneficiaries and Medicaid recipients. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1976 amendments to the Social Security Act regarding utilization review requirements in hospitals not covered by PSROs. E. *Legal Basis.* Sec. 1903(g)(1)(C) of the Social Security Act; Sec. 110 of Pub. L. 94-182. F. *Chronology:* NPRM was published on March 3, 1980. Correction Notice was published on May 2, 1980. Comment period closes July 1, 1980.	Beverly Christian, Program Analyst, IRB, DPR, HSQB, 1st Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207 301-594-3980.	Final Rule fiscal year 1981.
HCFA-5—Medicare-Medicaid Program: Validation of Accreditation Surveys of Hospitals—Requirements for Review of Health Care.	A. *Description:* The regulation authorizes surveys to validate whether Medicare hospitals that have been accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA) are meeting the specific Medicare statutory and regulatory conditions for participation. B. *Why Significant:* This regulation will provide for consultation with JCAH and AOA before the Secretary could promulgate standards that are higher or more precise than those used by JCAH or AOA. C. *Regulatory Analysis:* Not required. D. *Need:* The Department will set new policy that requires modified regulation. The intent is to expand and clarify the regulatory provisions concerning the effect of JCAH and AOA hospital accrediation. E. *Legal Basis:* Secs. 1102, 1861(b), 1864, 1865, and 1871 of the Social Security Act (42 U.S.C. 1302, 1396(e), 1895aa, 1395bb, 1395hh, and 1395rr). F. *Chronology:* NPRM was published on April 27, 1979 (44 FR 25186). The comment period closed on June 26, 1979.	Romes Calhoun, Standards and Certification Analyst, HSQB, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-9714.	Final Rule July-September 1980.
HCFA-6—Medicare/Medicaid Program: Conditions of Participation for Hospitals—Revised Conditions for Participation.	A. *Description:* This regulation would revise conditions of participation for hospitals in Medicare and Medicaid. It would simplify the language and update the requirements to reflect changes in legislation and advances in technology. B. *Why Significant:* This regulation would simplify the regulatory requirements hospitals must meet to be certified for participation in Medicare and Medicaid. The amendments are intended to hold down costs while maintaining an acceptable level of patient care. C. *Regulatory Analysis:* Not required. D. *Need:* To add greater requirements for accountability while allowing flexibility for hospitals in performing administrative and managerial functions; and to implement the 1975 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1861(e), 1861(f), 1861(g), 1864, and 1891 of the Social Security Act (42 U.S.C. 1302, 1395 et seq.); Sec. 102 of Pub. L. 94-182. F. *Chronology:* General Notice published on November 2, 1977 (42 FR 57351).	Marc Thomas, Standards and Certification Analyst, HSQB, 2nd Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD, 21207 301-594-9714.	Proposed Rule April-June 1980.
HCFA-7—Medicare/Medicaid Program: Funding of Professional Standards Review Organizations (PSRO) Hospital Review—Method for Reimbursing Cost of Hospital Review.	A. *Description:* This regulation sets forth a new method for reimbursing the cost of hospital reviews by PSROs. It applies to review of hospital care provided to patients eligible under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children's Programs. B. *Why Significant:* This regulation will set budget limitations on the amount that can be spent for PSRO hospital review by providing for an annual areawide budget ceiling for each PSRO. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1975 amendments of the Social Security Act. E. *Legal Basis:* Secs. 1168, 1815(b), and 1861(w) of the Social Security Act; Sec. 112 of Pub. L. 94-182. F. *Chronology:* NPRM was published on May 7, 1979 (44 FR 26769). The comment period closed on July 6, 1979.	Martha Pouderoyen, Program Analyst, PMB, Div. of PSRO Program Oper., HSQB, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-1322.	Final Rule July-September 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
HCFA-8—Medicare/Medicaid Program: Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSROs)—Criteria Governing Confidentiality and Disclosure of Information.	A. *Description:* These regulations set forth criteria governing the acquisition, protection, and disclosure of information obtained or generated by PSROs. B. *Why Significant:* These regulations place limits on the disclosure of PSRO information and establish penalties for unauthorized disclosure. These regulations are intended to assure that PSROs have access to necessary information, that confidental information is adequately safeguarded and that the information may be used as effectively as possible. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1166(a) of the Social Security Act; Sec. 5(h) of Pub. L. 95-142. F. *Chroriology:* Interim regulation was published on January 16, 1978 (43 FR 2282). NPRM was published on January 15, 1979 (44 FR 3058). The comment period closed on March 16, 1979.	Tony Tirone, Legal Analysts, OPDC, HSQB, 2nd Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-597-2753.	Final Rule October-December 1980.
HCFA-11 — Medicare / Medicaid Program: Safeguards for Patient Funds—Procedures for Protection of Funds.	A. *Description:* This regulation expands standards for protection of personal funds of Medicare and Medicaid patients in skilled nursing facilities and intermediate care facilities. B. *Why Significant:* The regulation will curtail the reported misuse of patient funds and assure that personal funds are fully accounted for and made available to patients when they need them. In addition, there is strong public interest in adequately safeguarding patient funds. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 and 1978 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1861(j)(14) of the Social Security Act; Sec. 21(a) of Pub. L. 95-142; Sec. 8(a) of Pub. L. 95-292. F. *Chronology:* NPRM was published on September 1, 1978 (43 FR 39154). The comment period closed on October 31, 1978.	Janice Caldwell, Director, DLTC, HSQB, 2nd Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207 301-594-5014.	Final Rule July-September 1980.
HDFA-13 — Medicare / Medicaid Program: Conditions of Participation for Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)—Conditions of Participation.	A. *Description:* The proposed regulations would recodify, revise and consolidate present regulations governing conditions of participation for skilled nursing and intermediate care facilities under the Medicaid and Medicare programs. B. *Why Significant:* This regulation, will focus on patient care, promote cost containment while improving quality care, and achieve more effective compliance. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* Change in methods of delivering health care and the need to control the most of long term care while improving quality patient care. E. *Legal Basis:* Secs. 1102, 1814, 1832, 1833, 1861, 1863, 1865, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395, 1395f, 1395k, 1395x, 1395z, 1395bb, 1395cc, 1395hh, 1396(d)(8), and 1905(c)). F. *Chronology:* Notice was published on June 8, 1978 (43 FR 24873).	J. Richard Lenehan, Jr., Program Analyst, HSQB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-7651.	Proposed Rule April-June 1980.
HCFA-15—Medicare/Medicaid Programs: Sprinkler Systems for Long Term Care Facilities—Requirements for Fire Extinguishment Systems.	A. *Description:* The regulation would propose requirements for fire extinguishment systems in skilled nursing and intermediate care facilities. B. *Why Significant:* Automatic extinguishment systems are an important aspect to patient safety in long term care facilities, but are also costly to install; especially in existing facilities. C. *Regulatory Analysis:* Not required. D. *Need:* Concern by the public to extent requirements for automatic extinguishment systems to all facilities. E. *Legal Basis:* Secs. 1102, and 1861(j) (13) of the Social Security Act (42 U.S.C. 1302.) F. *Chronology:* Notice of Intent was published on December 6, 1978 (43 FR 57166. The comment period closed on January 30, 1979.	Robert Jevec, Program Analyst, HSQB, 2nd Flr., Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-3314.	Proposed Rule April-June 1980.
HCFA-16—Medicare/Medicaid Program: Termination of Federal Financial Participation (FFP) in Long Term Care Facilities—Change of FFP Requirements.	A. *Description:* The regulation would amend the Medicaid regulations concerning Federal financial participation (FFP) in cases where a Medicaid nursing home's provider agreemant is not renewed or is terminated because the home is out of compliance with Federal requirements. B. *Why Significant:* Guidelines for the termination of FFP in long term care facilities. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is needed to establish a uniform nationwide Medicaid policy. E. *Legal Basis:* Sec. 1102 of the Social Security Act (42 U.S.C.1302). F. *Chronology:* The proposal is currently being developed. When it is completed it will be submitted to the Department for approval.	Stanley Katz, Director, DTPL, BPP, Rm. 190 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9595.	Proposed Rule July-September 1980.
HCFA-17—Medicare Program: Radiological Services—Procedures for Reimbursement.	A. *Description:* This regulation broadens the scope of the radiology services for which Medicare will reimburse at 100 percent of reasonable charges. B. *Why Significant:* This regulation will help simplify reimbursement procedures and facilitate claims processing by hospitals and Medicare carriers and intermediaries for inpatient radiology services. C. *Regulatory Analysis:* Not required. D. *Need:* Administrative simplicity. E. *Legal Basis:* Sec. 1833(a)(1)(B) of the Social Security Act; Sec. 131 of Pub. L. 90-248. F. *Chronology:* NPRM was published on January 25, 1979 (44 FR 5162). The comment period closed on March 26, 1979.	Henry J. Hehir, Director, DMSLP, BPP, HCFA, Rm 489 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8561.	Final Rule July-September 1980.
HCFA-18—Medicare Program: Reimbursement Prepaid Health Plans—Conditions and Principles of Reimbursement.	A. *Description:* This regulation would establish qualifying conditions and principles of reimbursement for Health care prepayment plans (HCPPs), other than health maintenance organizations, (HMOs), which elect to receive reimbursement under the Medicare Supplementary Medical Insurance Program. B. *Why Significant:* The requirements on this regulation for HCPPs are similar to the extent possible, to those provided by the Medicare payment for HMOs reimbursed on a reasonable cost basis. C. *Regulatory Analysis:* Not required. D. *Need:* The consistency in qualifying conditions and reimbursemant principles will assure uniform treatment of both these types of prepayment organizations under Medicare. E. *Legal Basis:* Secs. 1802 and 1833(a)(1)(A) of the Social Security Act. F. *Chronology:* The proposal is currently under review in the Department.	Frank E. Emerson, Program Analyst, BPP, Rm. 1-A-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-2968.	Proposed Rule April-June 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
HCFA-21—Medicare Program: Provider Reimbursement Determinations—Criteria and Procedures for PRRB Hearings and Decisions.	A. *Description:* This regulation would propose criteria for reopening certain provider cost reimbursement determinations. It would also propose procedures for final review of Provider Reimbursement Review Board (PRRB) decisions. B. *Why Significant:* Include more detailed guidelines for PRRB decisions and hearings. C. *Regulatory Analysis:* Not required. D. *Need:* To streamline procedures and to resolve a number of problems which have been identified through experience under current regulations. E. *Legal Basis:* Secs. 1102, 1861(v)(1)(A)(ii), and 1878(f)(1) of the Social Security Act (42 U.S.C. 139500.) F. *Chronology:* NPRM was published on February 14, 1980 (45 FR 9953). The comment period closed on April 14, 1980.	Stanley Katz, Director, DTPL, BPP, Rm. 190 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9595.	Proposed Rule October-December 1980.
HCFA-22—Medicare Program: Fiscal Intermediary Performance—Standards, Criteria, and Procedures for Performance of Intermediaries.	A. *Description:* These regulations recodify existing regulations dealing with contracts between the Secretary and Medicare fiscal intermediaries. They also specify standards, criteria, and procedures for determining the efficiency and effectiveness of those intermediaries and for assigning providers to intermediaries. B. *Why Significant:* This regulation would provide that a decision to enter into, review, or terminate an intermediary agreement must be based on a finding made after applying the required standards and criteria that in the particular instance would be in the best interests of the program. It also gives the Secretary the authority, after applying the appropriate standards and criteria, to assign or reassign a provider to a fiscal intermediary and designate a national or regional intermediary to service a class of providers. C. *Regulatory Anaylsis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1816, 1842, 1961(u), 1971, and 1975 of the Social Security Act; Sec. 14 of Pub. L. 95-142. F. *Chronology:* NPRM was published on November 9, 1978 (43 FR 52256). The comment period closed on January 8, 1979.	Irvin Robertson, Director, DP, OPA, BPO, Rm. 264 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8003.	Final Rule April-June 1980.
HCFA-23—Medicare Program: Durable Medical Equipment (DME)—Requirements for Purchase of DME.	A. *Description:* This regulation specifies criteria for requiring purchase (on a lease purchase or other basis) of an item of durable medical equipment when purchase would be less costly or more practical than rental. Procedures are proposed for waiving the purchase requirement and coinsurance in specific circumstances. B. *Why Significant:* This regulation would reduce program costs caused by long and costly rentals of equipment and reduce undue expenses of beneficiaries who must pay annual deductibles and coinsurance when equipment is rented over an extended period of time. C. *Regulatory Anaylsis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, and 1833(f) of the Social Security Act (42 U.S.C. 1302 and 1395(f)); Sec. 16 of Pub. L. 95-142. F. *Chronology:* NPRM was published on December 14, 1978 (43 FR 58390). The comment period closed on February 1, 1979.	Paul Riesel, Branch Chief, PPRB, BPP, Rm. 1-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1843..	Final Rule April-June 1980.
HCFA-25—Medicare Program: Part A Entitlement and Copayments—Clarification of Eligibility Requirements.	A. *Description:* This regulation would clarify, simplify and update existing regulations pertaining to (1) entitlement to Medicare hospital insurance for certain groups and (2) the Medicare inpatient hospital coinsurance, the post-hospital extended care coinsurance, and the blood deductible. B. *Why Significant:* Beneficiaries and potential beneficiaries can more easily understand the conditions that would make them eligible for Medicare and how much money they would have to contribute toward the cost of their hospital care. C. *Regulatory Analysis:* Not required. D. *Need:* To clarify certain portions of the Medicare, Part A regulations so that beneficiaries and potential beneficiaries can more easily understand the conditions that would make them eligible for Medicare and how much money they would have to contribute toward the cost of their hospital care. E. *Legal Basis:* Secs. 226, 1102, 1813 and 1871 of the Social Security Act (42 U.S.C. 426, 426a, 1302, 1395e, and 1395hh). F. *Chronology:* NPRM was published on May 30, 1980 (45 FR). The Comment period closes on July 30, 1980.	Luisa Iglesias, Regulation Analyst BPP, 357G Humphrey Bldg., Washington, D.C. 20201, 202-426-4055.	Final Rule FY 81.
HCFA-26—Medicare/Medicaid Program: Reimbursement: Internship and Residency Program—Change in Reimbursement Requirements.	A. *Description:* This regulation would eliminate the requirement that a provider's costs be reduced by the amounts of certain grants and donations when calculating the reimbursement allowed under Medicare, Medicaid, or the Maternal and Child Health Program. These grants and donations are those which support approved internship and residency programs in family practice, general medicine, and general pediatrics. B. *Why Significant:* The regulation would allow priviaders to realize the full benefit of grants for primary care residency programs by not deducting these grants from incurred provider cost before determining Medicare and Medicaid reimbursement. C. *Regulatory Analysis:* Not required. D. *Need:* To avoid nullifying the purpose of specific grants for primary care internship and residency programs. E. *Legal Basis:* Secs. 1102, 1814(b) and 1833(a)(2) of the Social Security Act. F. *Chronology:* NPRM was published on August 10, 1979 (44 FR 47117). The comment period closed on October 9, 1979.	William J. Goeller, Chief, PRB, BPP, Rm. 1-D-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1802.	Final Rule July-September 1980.
HCFA-27—Medicare Program: Teaching Hospitals' Physicians Costs—Criteria for Payments to Teaching Hospitals.	A. *Description:* This regulation proposes criteria under which Medicare would pay reasonable charges for physician services in teaching hospitals or would reimburse teaching hospitals for the reasonable costs of physician services. It would also specify the manner and extent to which payments would be made for certain medical schoof costs and for services of volunteer physicians. B. *Why Significant:* The regulation provides that the reasonable cost of physician services would be based on that portion of each physician's total compensation which is properly attributable to furnishing services to Medicare beneficiaries; and specifies the conditions under which physician services in a teaching hospital may be reimbursed on a reasonable charge basis under the "grandfather clause" or "private patient" exceptions.	Bill Birney, Chief, PPR Section, BPP, Rm. 1-E-5, ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-5431.	Proposed Rule April-June 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1842(b)(3) and 1861(b)(7)(A) of the Social Security Act; Sec. 227 of Pub. L. 92-603. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.		
HCFA-28—Medicare Program: Special Care Units—Clarifies Definitions and Reimbursement Procedures.	A. *Description:* These regulations refine the definition of hospital special care units and clarify the requirements for their reimbursement under the Medicare program. B. *Why Significant:* The amendments to the current regulation will expand upon the general requirements for special care units, and set specific requirements of nursing care which they must provide to be considered special care units for Medicare program reimbursement purposes. C. *Regulatory Analysis:* Not required. D. *Need:* Clarify the intent of the regulation that the term "special care unit" applies only to those units rendering a level of care that is comparable to intensive care. E. *Legal Basis:* Secs. 1102, 1814(b), 1861(v), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395x, and 1395hh). F. *Chronology:* NPRM published on May 16, 1979 (44 FR 28768). The comment period closed on July 16, 1979.	William J. Goeller, Chief, PRB, BPP, Rm. 1-D-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1802.	Final Rule April-June 1980.
HCFA-29—Medicare Program: Reimbursement to Related Organizations—Sets Reimbursement Limits.	A. *Description:* The regulation limits the amount a provider may be reimbursed on the basis of charges when it obtains services, facilities, and supplies from an organization related to the provider by common ownership or control. B. *Why Significant:* The regulation clarifies the meaning and intent of the regulation by defining terms and adding explanatory language. C. *Regulatory Analysis:* Not required. D. *Need:* To make the regulation more understandable to the public, and to reduce those areas of misinterpretation which causes dispute in administration. E. *Legal Basis:* Secs. 1102, 1861(v), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395o(u), and 1395hh). F. *Chronology:* NPRM was published on January 26, 1979 (44 FR 5479). The comment period closed on March 27, 1979.	Paul Trimble, Branch Chief, Accounting Policy Branch, BPP, Rm. 1-G-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8640.	Final Rule July-September 1980.
HCFA-30—Medicare Program: End-stage Renal Disease (ESRD) Networks—Requirements for ESRD Networks.	A. *Description:* The proposed regulation requires that networks establish goals to maximize use of self-dialysis and kidney transplantation and that there be at least one patient representative on each network coordinating council and executive committee. It would also require networks to submit annual reports; ESRD facilities to make individual patient information available to their network medical review boards upon request; and that network meetings be advertised and open to the public. B. *Why Significant:* This regulation is intended to: 1) given ESRD patients and the general public a more active role in network decision making processes; 2) encourage maximum use of the lower cost forms of treatment, self-dialysis and kidney transplantation; and 3) encourage greater objectivity in network decision-making. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1978 amendments to the Social Security Act. E. *Legal Basis:* Sec. 1881(c) of the Social Security Act; Pub. L. 95-292. F. *Chronology:* NPRM was published on July 18, 1979 (44 FR 41841). The comment period closed on September 17, 1979.	Mike Baier, Program Analyst, Office of End Stage Renal Disease, OSP, Rm. 1-D-3, Dogwood West Bldg., 1848 Gwynn Oak Ave., Baltimore, MD 21235, 301-594-6530.	Final Rule July-September 1980.
HCFA-31—Medicare Program: Incentive Reimbursement for End-Stage Renal Disease (ESRD) Services—Methods and Procedures for Reimbursement.	A. *Description:* The regulation would propose methods and procedures for reimbursing providers and facilities for outpatient renal dialysis services provided to ESRD patients. B. *Why Significant:* The regulation would provide for prospective payment on various types of dialysis treatment through national rates, periodically adjusted. The rates will be paid subject to an exception process. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation provides for an incentive reimbursement method to encourage economies in the delivery of ESRD services. E. *Legal Basis:* Secs. 1102, 1814(b), 1833, 1861(v)(1), 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395(f), 1395e, 1395(b)(1), 1395hh and 1395rr). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bernadette Schumaker, Chief, Alter. Reim. Systems Branch, Rm. 1-A-1 ELR, 6401 Security Blvd., Balto., MD 21235, 301-597-1048.	Proposed Rule April-June 1980.
HCFA-32—Medicare Program: Deeming of Income Between Spouses—Financial Eligibility Requirements.	A. *Description:* This regulation would revise current rules for determining Medicaid financial eligibility for the aged, blind, or disabled in States and territories using more restructure eligibility requirements than Supplemental Security Income (SSI) requirements. B. *Why Significant:* The regulation would require these States and territories to cease the deeming of income between aged, blind, or disabled applicants (or recipients) and their spouses, when either the applicant (or recipient) or his or her spouse is institutionalized. C. *Regulatory Analysis:* Not required. D. *Need:* To implement a court order by the Federal District Court of Columbia. E. *Legal Basis: Gray Panthers* vs. Secretary, Department of Health, Education, and Welfare, et al., cure cure action no. 78-0661; Sec. 1102 of the Social Security Act (42 U.S.C. 1203). F. *Chronology:* NPRM was published on November 21, 1979 (44 FR 66855). The comment period closed on January 21, 1980.	Michael Fiore, Program Analyst, DMEP, BPP, Rm. 416 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9127.	Final Rule July-September 1980.
HCFA-33—Medicare Program: Educational Programs Reimbursement—Clarification of Reimbursement Policy.	A. *Description:* This proposal would revise the regulation governing the amount of reasonable cost reimbursement due health care providers under Medicare. B. *Why Significant:* The regulation would more clearly identify the provider costs for approved medical, nursing, and paramedical education programs that are allowable and to specify procedures for calculating a provider's net costs of these programs. C. *Regulatory Analysis: Not required.*	William Goeller, Chief, Provider Reimbursement Br., BPP, Rm. 1-D-1 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1802.	Proposed Rule July-September 1980.

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Title	Summary	Contact	Decision quarter
	D. *Need:* Changes which have occurred in the way health care education programs are operated and financed necessitate the revision. Providers and the public generally need to be informed of clarifications of Medicare reimbursement policy. E. *Legal Basis:* Secs. 1102, 1814(b) and 1833(a)(2) of the Social Security Act (42 U.S.C. 1302, 1395f(b), and 1395d(a)(2)). F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.		
HCFA-34—Medicare/Medicaid Program: Proposed List of Additional Items and Services Subject to the Lowest Charge Level—List of Items and Services Subject to Lowest Level Charge Criteria.	A. *Description:* This regulation would add to the list of items and services subject to the lowest charge criteria, 15 of the frequently performed laboratory services for Medicare-Medicaid beneficiaries and 5 items of durable medical equipment most frequently rented or purchased. A laboratory test or service on this list could be subject to the lowest charge provision regardless of whether it was performed on an individual basis (manually or on an automated equipment) or as part of an automated battery. B. *Why Significant:* The lowest charge level regulation implements certain cost containment provisions as set forth by law. C. *Regulatory Analysis: Not required.* D. *Need:* To implement the 1974 and 1975 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1842(b), 1971, and 1903(i)(1) of the Social Security Act (42 U.S.C. 1302, 1395(b), 1395hh, and 1396(b)(i)(1)). F. *Chronology:* Notice was published on March 26, 1979 (44 FR 18116). The comment period closed on May 10, 1979.	Paul Riesel, Branch Chief, PPRB, BPP, Rm. 1-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 8-594-5431.	Final Notice FY 81.
HCFA-35—Medicare/Medicaid Program: Prospective Reimbursement of Rural Health Clinic Services—Principles of Reimbursement.	A. *Description:* This regulation would propose a prospective payment method for reimbursement of rural health clinic services under Medicaid and Medicare. B. *Why Significant:* The regulation would increase efficiency and increase beneficiary access to rural health services. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 and 1978 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1833(a)(3), 1861(v)(1)(A) and 1902(a)(13) of the Social Security Act; Pub. L. 95-210 and Pub. L. 95-292. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bernie Truffer, Acting Section Chief Health Organization, BPP, Rm. 181, EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-2584.	Proposed Rule April-June 1980.
HCFA-36—Medicaid Program: Family Planning—Requirements for Family Planning Services.	A. *Description:* This regulation would specify Federal requirements for provision of family planning services under Medicaid. It also would specify types and ranges that may be included by States. B. *Why Significant:* Regulations will assure that States will provide a uniform minimum set of family planning services to carry out the statutory requirement. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1972 amendments to the Social Security Act. E. Legal Basis: Secs. 1102, 1905(a)(4)(C) of the Social Security Act (42 U.S.C. 1302, 1396d(a)(4)(C)). F. *Chronology:* NPRM was published on August 9, 1979 (44 FR 46899). The comment period closed on October 9, 1979.	Francina Spencer, Health Insurance Policy Specialist, BPP, Rm. 431 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9825.	Final Rule FY 81.
HCFA-37—Medicaid Program: Reasonable Cost-Related Reimbursement for Skilled Nursing and Intermediate Care Facility Services—Requirements for State Methods of Payment.	A. *Description:* This regulation will clarify and expand requirements for State methods of payment for skilled nursing and intermediate care facility services under State Medicaid programs. B. *Why Significant:* The regulation will make cost-related reimbursement for long-term care facilities a more effective, more accurate form of payment. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are needed to clarify inconsistancies in the cost-related reimbursement rules published in the FEDERAL REGISTER July 1, 1976. (41 FR 27300) E. *Legal Basis:* Secs. 1102, and 1902(a)(13)(E) of the Social Security Act. F. *Chronology:* NPRM was published on April 18, 1979 (44 FR 23095). The comment period closed on June 18, 1979.	Milton Dezube, Section Chief, Issues Section, BPP, Rm. 1-A-1 ELR, 6401 Security Blvd., Baltimore, MD 21235 301-597-1804.	Final Rule FY 81.
HCFA-38—Medicaid Program: State Medicaid Contracts—Procedures for Contract Practices.	A. *Description:* This regulation proposes requirements to strengthen protections against questions on contract practices and possible program abuse and to remedy ambiguities and omissions in existing regulations. B. *Why Significant:* The regulation will improve Medicaid program administration by ensuring proper contracting procedures and maximum appropriate competition. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation is needed to implement Federal prior approval authority under 45 CFR Part 74, Administration of Grants. E. Legal Basis: Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Leonard Monfred, Branch Chief, Div. of Procurement, BPO, Rm. 264 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-7035.	Proposed Rule July-September 1980.
HCFA-39—Medicaid Program: Hearing Aid and Eyeglass Reimbursement—Procedures for Purchasing Hearing Aids and Eyeglasses.	A. *Description:* The regulations will require Medicaid agencies to establish an acquisition cost (AC) program, volume purchase plan (VPP), or some combination of both as a method of purchasing eyeglasses and hearing aids for Medicaid recipients. The regulation will also set conditions for purchase of hearing aids by Medicaid agencies. B. *Why Significant:* The regulation would limit payment to providers to the lower of the actual acquisition cost plus a reasonable dispensing fee, or the provider's usual and customary charge to the general public. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are needed to lower the cost and improve the quality of hearing aids and eyeglasses paid for under the State Medicaid program. E. *Legal Basis:* Sec. 1102 of the Social Security Act. F. *Chronology:* NPRM was published on May 25, 1979 (44 FR 30382). The comment period closed on July 24, 1979.	Pete Rodler, Acting Chief, Pharmeceutical & Medical Services Reimbursement Branch, BPP, Rm. 1-C-5, ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1845.	Final Rule July-September 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
HCFA-41—Medicaid Program Medicaid Quality Control System Expansion of Information Requirements for Completion of Reviews and Reports.	A. *Description:* The regulations would amend the current Medicaid Quality Control (MQC) regulations by requiring States, within specific time frames to: (1) complete a set percentage of eligibility reviews (active cases and negative case actions); and (2) submit individual case review findings. B. *Why Significant:* The regulations will make it easier for States to understand and operate the Medicaid Quality Control program, and improve Federal and State program management by ensuring timely completion of reviews and reports. C. *Regulatory Analysis:* Not required. D. Need: The regulations are needed to amend Medicaid Quality Control regulations by specifying time periods for completion of reviews of the cases in the monthly MQC samples. E. *Legal Basis:* Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. *Chronology:* The proposal is currently under review in the Department.	Carlton Stockton, Director, DQCR, BQC, 2-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1350.	Proposed Rule April-June 1970.
HCFA-44—Medicare/Medicaid Program: Psychosurgery—Requirements for Psychosurgery Procedures.	A. *Description:* This regulation would mandate specific requirements for the performance of psychosurgical procedures. The regulation would establish a mechanism for assuring that any psychosurgical procedures would be performed with appropriate safeguards and offer a model for State and local governments as well as for other concerned organizations. B. *Why Significant:* The regulation provides specific procedures and constraints in regard to psychosurgical procedures. It should adequately protect human subjects by requiring approval by a panel before procedure takes place. C. *Regulatory Analysis:* Not Required. D. *Need:* The regulation addresses the concern of the public and Congress which generated the report by the National Commission for the Protection of Human Subjects of Biomedical and Behavorial Research in psychosurgery. E. *Legal Basis:* Sec. 1102 of the Social Security Act; (42 U.S.C. 1302). F. *Chronology:* The proposal is currently under review in the Department.	Mendel J. Kaufman, Chief, Special Cov. Issues Br., BPP, Rm. 463 EHR, 6401 Security Blvd., Balto., MD 21235, 301-594-8569.	Proposed Rule April-June 1980.
HCFA-45—Medicaid Program; Verification of Services—Requirements for Written Verification.	A. *Description:* This regulation would require *all* States to implement a written verification of services program with Medicaid recipients in order to improve the capability to detect and deter fraud and abuse. B. *Why Significant:* The regulation will further clarify State Medicaid agency responsibilities for the control of Medicaid fraud and abuse and strengthen the regulatory requirements so that States can adequately meet their responsibilities. C. *Regulatory Analysis:* Not Required. D. *Need:* The Department will set new policy that requires modified regulation. The intent is to prevent or discourage those practices which increase the cost of the Medicaid program without benefiting Medicaid recipients. E. *Legal Basis:* Secs. 1102, 1902(a)(4)(A), 1902(a)(38), 1902(a)(30), 1903(a)(6), 1903(b)(3), 1903(h), and 1903(q) of the Social Security Act (42 U.S.C. 1302, 1396(a)(4)(A), and 1396a(a)(30)). F. *Chronology:* NPRM was published on December 2, 1979 (44 FR 75673). The comment period closed on February 19, 1980.	James F. Patton, Director, DVPS, OPV, BQC, Rm. 2-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8000.	Final Rule FY 81.
HCFA-46—Medicare Program: Withholding Payments to Physicians, Providers, and Suppliers of Services—Procedures to Safeguard Due Process.	A. *Description:* This regulation would clarify due process procedures that must be followed when payments to providers, physicians, and suppliers of services under the Medicare program are withheld because of suspected fraud or willfull misrepresentation. B. *Why Significant:* The regulation will clarify existing procedures by eliminating ambiguities and assuring that due process requirements are met without compromising pending investigation of suspected fraud or willful misrepresentation. C. *Regulatory Analysis:* Not required. D. *Need:* Current regulations do not provide clear notification and review procedures necesary to satisfy due process. The regulation will establish procedures to safeguard Federal financial interest as well as the due process rights of the affected party. E. *Legal Basis:* Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395). F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	James F. Patton, Director, DVPS, OPV, BQC, Rm. 2-E-5, ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8000.	Proposed Rule April-June 1980.
HCFA-47—Medicaid Program: Title XIX Administrative Sanctions.	A. *Description:* This regulation would establish State plan requirements and procedures which require State Medicaid agencies to exclude from Medicaid program reimbursement providers who defraud or abuse the Medicaid program. B. *Why Significant:* This regulation will give States a clear regulatory authority to pursue appropriate administrative sanctions in the cases of fraud or abuse. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1102, 1902(a)(4)(A), and 1902(a)(30) of the Social Security Act; Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed it will be submitted to the Department for approval.	James F. Patton, Director, DVPS, OPV, BQC, Rm. 2-E-5 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8000.	Proposed Rule April-June 1980.
HCFA-49—Medicare/Medicaid Program: System for Hospital Uniform Reporting—Requirements for Cost Reporting.	A. *Description:* The regulations require all hospitals that receive payments under the Medicare and Medicaid programs to report cost-related information, such as cost of operation, volume of services, and capital assets, in a prescribed uniform manner. B. *Why Significant:* The purpose is to obtain comparable cost and related data on all participating hospitals for reimbursement, effective cost, and policy analysis, assessment of alternative reimbursement mechanisms and health planning. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320(a)); Sec. 19 of Pub. L. 95-142.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Final Rule FY 81.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* NPRM was published on January 23, 1979 (44 FR 4741). The comment period closed on April 23, 1979. A new NPRM was published on March 19, 1980 (45 FR 17894) because of the large number of comments received in response to the original notice published and because of the extensive changes made in the system. The comment period closed on May 28, 1980.		
HCFA-50—Medicare/Medicaid Program: Skilled Nursing Facility/Intermediate Care Facility (SNF/ICF) Uniform Cost Reporting—Requirements for Cost Reporting.	A. *Description:* This regulation will propose uniform systems that SNFs and ICFs participating in the Medicaid or Medicare program must use to report cost of operation, volume of services, and capital assets. B. *Why Significant:* This regulation will enable the Department to obtain comparable cost and related data on all participating SNFs and ICFs for effective cost and policy analysis, assessment of alternative reimbursement mechanisms and health planning. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F) and 1902 (a)(40) of the Social Security Act (42 U.S.C. 1320a); Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto, MD 21207, 301-597-2367.	Proposed Rule FY 81.
HCFA-51—Medicare/Medicaid Program: Hospital Discharge and Data Reports—Requirements for Discharge and Bill Data Reports.	A. *Description:* This regulation will require all hospitals to report discharge and billing data in a uniform manner. B. *Why Significant:* This regulation will enable the Department to obtain uniform discharge and bill data on all hospital patients in order to conduct retrospective profile analysis, and to support cost containment legislation and future cost control efforts. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Secuity Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F), and 1902 (a)(40) of the Social Security Act (42 U.S.C. 1320a); Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto, MD 21207, 301-597-2367.	Proposed Rule FY 81.
HCFA-52—Medicare/Medicaid Program: Skilled Nursing Facility/Intermediate care Facility (SNF/ICF) Discharge and Bill Data—Requirements for Discharge and Bill Data Reports.	A. *Description:* This regulation will require all SNFs/ICFs to report discharge and billing data in a uniform manner. B. *Why Significant:* This regulation will enable the Department to obtain uniform discharge and bill data on all SNF/ICF patients in order to conduct retrospective profile analysis and to support cost containment legislation and future cost control effors. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1801(v)(1)(F) and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320a) and Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Proposed Rule FY 82.
HCFA-53—Medicare/Medicaid Program: Home Health Agency (HHA) Cost and utilization Requirements for Cost Reporting.	A. *Description:* This regulation will propose uniform systems that HHA's participating in the Medicaid or Medicare program must use to report cost of operation, volume of services and capital assets. B. *Why Significant:* This regulation will enable the Department to obtain comparable cost and related data on all participating HHAs for effective cost and policy analysis, assessment of alternative reimbursement mechanisms and health planning. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F), and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320a) Sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under development. When it is completed, it will be submitted to the Department for approval.	Bernard Patashnik, Director, DISR, BPP, Rm. 1-G-1, ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1335.	Proposed Rule FY 81.
HCFA-54—Medicare/Medicaid Program: Home Health Agency (HHA) Discharge and Bill Data—Requirement for discharge and Bill data.	A. *Description:* This regulation will require all HHAs to report discharge and billing data in a uniform manner. B. *Why Significant:* The regulations will enable the Department to obtain uniform discharge and bill data on all HHA patients in order to conduct retrospective profile analysis, and to support cost containment legislation ant future cost control efforts. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement the 1977 amendments to the Social Security Act. E. *Legal Basis:* Secs. 1121, 1861(v)(1)(F), and 1902(a) (40) of the Social Security Act (42 U.S.C. 1302a); and sec. 19 of Pub. L. 95-142. F. *Chronology:* The proposal is currently under development. When it is completed, it will be submitted to the Department for approval.	Bill Cresswell, ORDS, Rm. 1-E-6, Oak Meadows Bldg., 6340 Security Blvd., Balto., MD 21207, 301-597-2367.	Proposed Rule FY 81.
HCFA-55—Medicare/Medicaid Program: Use of Federal Funds for Certain Prescribed Drugs—Requirements for Federal Payment for Certain Drugs.	A. *Description:* The proposed regulations would prohibit use of Federal funds under Medicare and Medicaid for certain drugs that have been classified as less than effective by the Food and Drug Administration and drugs that are illegal in interstate commerce. B. *Why Significant:* This regulation will respond to concerns of public interest groups by ensuring that services provided under the Medicare and Medicaid programs are of high quality and that Federal funds are expended in an effective and responsible manner. C. *Regulatory Analysis:* Not required. D. *Need:* To prohibit Medicare and Medicaid payments for drugs which are illegal in interstate commerce or ineffective. E. *Legal Basis:* Secs. 1862(a), 1871, and 1902 of the Social Security Act. F. *Chronology:* The proposal is currently under review in the Department.	Mendell J. Kaufman, Chief, SCIB, BPP, Rm. 463 EHR, 6401 Security Blvd., Balto., MD 21235, 301-594-8569.	Proposed Rule April-June 1980.

Health Care Financing Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
HCFA-56—Medicare Program: Common Audit Requirements.	A. Description: This regulation would prohibit Federal Matching of State Medicaid costs for hospital audits if they duplicate Medicare audits, and would define audit activities for purposes of determining duplication. It would also provide that, if a State requests Medicare to include additional items in the audit at the appropriate cost, or if a State performs these additional activities, Federal financial participation will be available in those costs. B. Why Significant: This regulation would eliminate unnecessary or duplicative audits completed for the same provider by Medicare or Medicaid and encourage sharing of audit information. C. Regulatory Analysis: Not required. D. Need: To simplify the administrative process by making Medicare and Medicaid more consistent and reducing duplicative audits. E. Legal Basis: Secs. 1102 and 1903(a)(7) of the Social Security Act (42 U.S.C. 1302 and 1396b). F. Chronology: NRPM was published on June 30, 1980 with a 60 day comment period.	Don Novitski, Chief, PAB, OSPE, BPO, Rm. 255 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9063.	Final Rule FY 81.
HCFA-57—Medicaid Program: Medicaid Overpayment Reporting Requirements.	A. Description: This regulation would require States to establish procedures to identify provider overpayments and report them to HCFA on a timely basis. B. Why Significant: This regulation would assure that Medicaid overpayments are properly and promptly identified and allow comparison of provider overpayments in the Medicare and Medicaid programs. C. Regulatory Analysis: Not required. D. Need: To recover inappropriate payments made to providers under the Medicaid program E. Legal Basis: Secs. 1102 and 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)). F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Guy L. Harriman, Jr., Chief, REB, DRRE, BPO, Rm. 2-O-3 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8193.	Proposed Rule July-September 1980.
HCFA-58—Medicare Program: Cost Reporting Requirements for Home Health Agencies (HHAs).	A. Description: This regulation would propose that non-provider based HHAs use the step-down method of cost-finding and all HHAs use a single method of cost apportionment known as "cost-per-visit-by-type-of-service-method". B. Why Significant: This regulation would improve program administration and reduce costs by adopting a single method of cost finding and apportionment for HHAs. C. Regulatory Analysis: Not required. D. Need: To better determine the costs of home health services. E. Legal Basis: Secs. 1102, 1814(b), 1815, 1861(v), 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395g, 1396x(v), 1395hh). F. Chronology: NPRM was published February 15, 1980 (45 FR 10382). The comment period closed on April 15, 1980.	Fred. Koenig, Chief, PAUPB, ORP, BPP, Rm. 1-E-2 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-8612.	Final Rule July-September 1980.
HCFA-59—Medicare Program: Limits on Costs and Charges for New Technology.	A. Description: This regulation would set forth HCFA's authority to establish reasonable charge limitations for certain items and services under the Medicare program if the standard reasonable charges approach (i.e., the use of customary and prevailing charge screens) is ineffective. B. Why Significant: This regulation would reduce excess program payment by setting limits on certain items and services which exceed standard reasonable charges. C. Regulatory Analysis: Not required. D. Need: To establish a clear basis for setting reimbursement limits on certain items and services under Medicare. E. Legal Basis: Sec. 1102, 1942(b)(3), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395u(b)(3) and 1395hh). F. Chronology: The proposal is currently being developed. When the review is completed, it will be submitted to the Department for Approval.	Paul Riesel, Chief, PPRB, DMSR, ORP, BPP, Rm. 1-A-3 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1843.	Proposed Rule April-June 1980.
HCFA-60—Medicare Program: Limitations on Reasonable Charges for Computerized Tomography Scan Services.	A. Description: This notice would establish limits on the amounts on which Medicare reasonable charge reimbursement for computerized tomography scans is based. B. Why Significant: This regulation would reduce inappropriate program payment by setting limits on reimbursement of computerized tomography scan services. C. Regulatory Analysis: Not required. D. Need: To ensure that payments for computerized tomography scans are made at an appropriate level. E. Legal Basis: Sec. 1102, 1942(b)(3), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395u(b)(3) and 1395hh). F. Chronology: The proposal is currently being developed. When the review is completed, it will be submitted to the Department for approval.	Paul Riesel, Chief, PPRB, DMSR, ORP, BPP, Rm. 1-A-3 ELR, 6401 Security Blvd., Baltimore, MD 21235, 301-597-1843.	Proposed Notice July-September 1980.

Deleted Regulations

Title	Description	Reason for deletion
Professional Standards Review Organizations (PSROs) Sanctions on Providers and Practitioners—Procedures for Invoking Sanctions.	This regulation specifies criteria for invoking sanctions against a health care practitioner or provider who claims payment for services which are medically unnecessary or inappropriate, do not meet professionally recognized standards, or are not adequately documented as to medical necessity or quality.	Final rule was published on February 20, 1980 (HSFA-1).
Certification of Separate Cost—Entities—The Requirements for Certification.	This regulation would have proposed conditions under which a component which provides typically unskilled care within a hospital may be certified as a provider distinct from the hospital.	Withdrawn (HCFA-9).
End-Stage Renal Disease (ESRD)—Electrical Requirements Revoked—Revoking Unnecessary Requirements.	This regulation revokes requirements for emergency generators and ground fault interrupters in freestanding end-stage renal disease centers because they have proven unnecessary for health and safety.	Final rule was published on April 10, 1980 (HCFA-10).
Extension of Professional Standards—Review Organization (PSRO) Review to Intermediate Care Facilities—Conditions for Reviewing Quality and Necessity of Care.	These regulations set forth conditions under which PSROs will assume responsibility from State Medicaid agencies for reviewing the quality and necessity of health care services provided in intermediate care facilities (ICFs) and intermediate care facilities for the mentally retarded (ICFs-MR).	Final rule was published on February 22, 1980 (HCFA-12).

Deleted Regulations—Continued

Title	Description	Reason for deletion
Effective Date Provider Agreement—Criteria for Effective Date of Provider Agreement.	This regulation makes policies governing the beginning effective dates of nursing home provider agreements, and the effect of a change in ownership on the continuation of Federal payments to nursing homes identical under Medicare and Medicaid.	Final rule was published on April 4, 1980 (HCFA-14).
Written Notice for Non-Reimbursable Services—Clarification of Beneficiary Liability.	This regulation clarifies that a beneficiary cannot be found liable for certain non-covered items or services if he/she has not been notified in writing that the items or services in question are excluded from Medicare coverage.	Final rule was published on November 29, 1979 (HCFA-19).
Inpatient Services—Foreign Hospitals—Procedures and Criteria for Medicare Payments.	This regulation sets forth procedures and criteria for Medicare payments for covered inpatient services furnished to beneficiaries by foreign hospitals.	Final rule was published on November 26, 1979 (HCFA-20).
Prohibition Against Reassignment—Procedures to Prohibit Reassignment of Claims.	This regulation specifies criteria and procedures to prohibit providers, physicians, and other suppliers, with certain exceptions, from assigning claims for reimbursement of services to other persons for collection. It also imposes administrative sanctions against providers, physicians, and suppliers who violate this prohibition.	Final rule was published on April 21, 1980 (HCFA-24).
Assignments of Benfits/Collection of Medical Support—Procedures for Assignment of Benefits.	These regulations specify new procedures: (1) allowing States to require Medicaid recipients to assign their rights to private insurance payments or other medical support to the States; (2) authorizing child support enforcement agencies to assist in collection of medical support; and (3) prohibiting Federal payment to any Medicaid recipient who is covered by a private health insurance policy having a Medicaid exclusion clause.	Final rule was published on February 11, 1980 (HCFA-40).
Medicaid Managment Information Systems (MMIS)/Additional Data Requirements—Procedures to Expand or Revise MMIS Requirements.	This regulation adds flexibility to the requirements under Medicaid for mechanized claims processing and information retrieval systems.	Final rule was published on March 5, 1980 (HCFA-42).
Medicaid Quality Control Fiscal Allowance—Requirements for States to Reduce Payment Error Rates.	This regulation sets a uniform national Medicaid eligibility error target rate of four percent to be achieved by all States by September 30, 1982.	Final rule was published on January 25, 1980 (HCFA-43).
Medicaid Recodification: General Requirements—Technical Corrections.	These amendments make technical corrections to the rewritten Medicaid regulations published on September 29, 1978 and March 23, 1979.	Final rule was published on April 11, 1980 (HCFA-48).

Title	Summary	Contact	Decision quarter
HCFA-61—Medicare Program: Reconsiderations and Hearings for Providers and Suppliers.	A. Description: This regulation would clarify and redesignate the procedures for making and reviewing determinations that affect the status of entities that participate in the Medicare program. It will also incorporate substantive changes relating to informal reconsideration procedures. B. Why Significant: This regulation would be easier to understand and eliminate inconsistencies between Medicare and Medicaid in provider appeals processes. C. Regulatory Analysis: Not required. D. Need: To simplify administration and assure due process by providing uniform appeal rights within Medicare. E. Legal Basis: Secs. 1102, 1814(d), 1835(b), 1861(e), 1861(j), 1861(o), 1861(p), 1861(r), 1861(aa), 1862(d) and (e), 1866, 1869, 1871, 1872, 1876, and 1881 of the Social Security Act (42 U.S.C. 1302, 1345x(j), 1395ii, 1395mm, 1395y(d) and (e), 1395cc, 1395ff, 1395(h), 1395x(e), 1395x(o), 1395x(p), 1395x(r), 1395x(aa), 1395hh, and 1395rr). F. The proposal is currently under review. When it is completed, it will be submitted to the Department for approval.	Stanley Katz, Director, DTPL, BPP, Rm. 190 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9595.	Proposed Rule July-September 1980.
HCFA-62—Medicare Program: Recodification: Medicare Entitlement and Benefits, Limitations, and exclusions: Supplementary Medical Insurance.	A. Description: This recodification will revise certain regulations dealing with supplementary medical insurance. It will clarify, reorganize, and renumber the eligibility requirements, enrollment procedures and the coverage period, the types of benefits provided and the limitations on these benefits. B. Why Significant: Periodic review of existing regulations is being conducted to make sure they are up to date, easy to locate, and clear. C. Regulatory Analysis: Note required. D. Need: To make regulations more understandable to the public. E. Legal Basis: Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. Chronology: NPRM has been waived. The final regulation is currently under review. When review is completed, it will be submitted to the Department for approval.	Mary E. Robinson, Program analyst, BPP, Rm. 357G, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, D.C. 20201, 202-426-3940.	Final Rule July-September 1980.
HCFA-63—Medicare Program: Recodification: Medicare Limitations on Exclusions of Benefits.	A. Description: This recodification would rewrite and renumber the provisions that identify the types and items of services that are not paid for by Medicare; and that specify the circumstances under which expenses for items and services usually paid for by Medicare may not be reimbursed. B. Why Significant: Periodic review of existing regulations is being conducted to make sure they are up to date, easy to locate, and clear. C. Regulatory Analysis: Not required. D. Need: To make regulations more understandable to the public. E. Legal Basis: Sec. 1102 of the Social Security Act (42 U.S.C. 1302). F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Luisa Iglesias, Regulation Analyst, BPP, Rm. 357G, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, D.C. 20201, 202-426-4055.	Proposed Rule July-September 1980.
HCFA-64—Medicare Program; Recodification: Medicare Overpayments, Recoveries, and Withholding.	A. Description: This recodification would rewrite and renumber procedures for determining and adjusting incorrect payments and the circumstances under which adjustment will be waived and if not recovery of overpayments. B. Why Significant: Periodic review of existing regulations is being conducted to make sure they are up to date, easy to locate, and clear. C. Regulatory Analysis: Not required. D. Need: To make the regulation more understandable to the public and streamline procedures. E. Legal Basis: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh). F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Luisa Iglesias, Regulation Analyst, BPP, Rm. 357G, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, D.C. 20201.	Proposed Rule July-September 1980.
HCFA-65—Medicare Program; Recodification: Medicare Provider Reimbursement Determinations and Appeals.	A. Description: This recodification will renumber and clarify the procedures for providers or their legal representatives to appeal reimbursement determinations or decisions under Medicare. It covers time constraints for filing appeals, parties authorized to participate at each hearing level, composition of each review body and legal aspects of hearing and appeals system, and procedures for reopening determinations and decisions.	Luisa Iglesias, Regulation Analyst, BPP, Rm. 357G, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, D.C. 20201, 202-426-4055.	Final Rule October-December 1980.

Deleted Regulations—Continued

Title	Description		Reason for deletion
	B. Why Significant: This recodification would revise, simplify, clarify, and reorganize existing regulations. C. Regulatory Analysis: Not required. D. Need: to make the regulation more understandable to the public and streamline procedures. E. Legal Basis: Secs. 1102, 1861(v)(1)(A)(ii), and 1878(f)(1) of the Social Security Act (42 U.S.C. 1302 and 1395oo). F. Chronology: NPRM is being waived. NPRM with proposed policy changes (HCFA-21) affecting these regulations was published on February 14, 1980 (45 FR 9953). The comment period closed on April 14, 1980.		
HCFA-66—Medicare Program; Recodification: Medicare Conditions for Payment.	A. Description: This recodification will renumber and clarify the provisions relating to the conditions under which hospital insurance and supplementary medical insurance payments will be made. B. Why Significant: This recodification would revise, simplify, clarify and reorganize existing regulations. C. Regulatory Analysis: Not required. D. Need: To make the regulation understandable to the public and streamline procedures. E. Legal Basis: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh). F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Luisa Iglesias, Regulation Analyst, BPP, Rm. 357G, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, D.C. 20201, 202-426-4055.	Proposed Rule July-September 1980.
HCFA-67—Medicaid Program: Requirements for Federally Funded Hysterectomies.	A. Description: This regulation would waive the requirement that in order to obtain a Federally funded hysterectomy, a woman must acknowledge receipt of information about the effects of a sterilization even if she is already sterile or requires emergency treatment. B. Why Significant: Existing regulations have resulted in unnecessary administrative burden on States. C. Regulatory Analysis: Not required D. Need: To eliminate administratively burdensome procedures not needed to protect patients. E. Legal Basis: Secs. 1102, 1902(a)(13), 1905(a)(4)(C) of the Social Security Act (42 U.S.C. 1302, 1396(a)(13) and 1396(d)(4)(C)). F. Chronology: NPRM is being waived. The final is currently under review. When the review is completed, it will be submitted to the Department for approval.	Raymond T. Johnson, Chief, OCP, Rm. 455 EHR, 6401 Security Blvd., Baltimore, MD 21235, 301-594-9370.	Final Rule July-September 1980.
HCFA-68—Medicare/Medicaid Program: Permissible Charges to Patient Funds.	A. Description: This regulation would define those costs that may be charged to the personal funds of Medicare and Medicaid patients in skilled nursing or intermediate care facilities. B. Why Significant: This regulation would safeguard personal funds of Medicare/Medicaid patients in nursing homes. C. Regulatory Analysis: Not required. D. Need: To implement P.L. 95-142 (Medicare and Medicaid Amendments of 1977). E. Legal Basis: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); Secs. 21(b) of P.L. 95-142 and 8(c) of P.L. 95-292. F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	David Chambers, Program Analyst, HSQB, 2nd Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-7651.	Proposed Rule July-September 1980.
HCFA-69—Medicare/Medicaid Program: Professional Standards Review Organization (PSRO) Designations.	A. Description: The proposed change in the PSRO area designation regulations would permit area redesignation for the purpose of increased administrative efficiency and remove the State and County specific PSRO area descriptions from the regulations and publish these in the future by notice. B. Why Significant: This regulation would reduce program costs for PSRO management and promote consolidation of PSRO areas where appropriate. C. Regulatory Analysis: Not required. D. Need: To reduce overall cost of PSRO review. E. Legal Basis: Secs. 1102 and 1152 of the Social Security Act (42 U.S.C. 1302 and 1320c(1). F. Chronology: The proposal is currently under review.	Marjorie Geller, Public Health Analyst, HSQB, First Floor, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-5033.	Proposed Rule July-September 1980.
HCFA-70—Medicare/Medicaid Program: Redesignation of Professional Standards Review Organization (PSRO) Areas in California.	A. Description: This regulation would redesignate PSRO areas in California in order to combine PSRO Areas XIX and XXIII. It will also facilitate initiation of PSRO activity in the currently uncovered area of Los Angeles, California. B. Why Significant: This regulation would achieve a more effective coordination between PSROs and Medicare/Medicaid fiscal agents and a higher degree of congruence with the Health Service Area designations. C. Regulatory Analysis: Not required. D. Need: To facilitate initiation of PSRO activity in the currently uncovered portion of Los Angeles County and achieve a higher degree of congruence with the Health Service Area designations. E. Legal Basis: Secs. 1102 and 1152 of the Social Security Act (42 U.S.C. 1302 and 1320c(1)). F. Chronology: NPRM was published on December 17, 1979 (44 FR 73126). The comment period closed on February 15, 1980.	Marjorie Geller, Public Health Analyst, HSQB, First Floor Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-5033.	Final Rule July-September 1980.
HCFA-71—Medicare/Medicaid Program: Survey and Certification.	A. Description: This regulation would streamline, simplify, and integrate, to the extent possible, survey and certification procedures for providers and suppliers under Medicare and Medicaid. B. Why Significant: This regulation would eliminate inconsistencies between Medicare and Medicaid requirements; eliminate unnecessary burden by focusing survey resources on problem providers. C. Regulatory Analysis: Under consideration. D. Need: To revise and consolidate existing survey and certification regulations. E. Legal Basis: 42 CFR, Part 405, Subpart S; 42 CFR, Part 402, Subpart A-E. F. Chronology: Notice of public hearing was published on March 7, 1980 (45 FR 14900). The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	William Hunt, Standards and Certification Analyst, DFO, HSQB, Room 2-E-2, Dogwood East Bldg., 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-7940.	Proposed Rule FY 81.

Deleted Regulations—Continued

Title	Description	Reason for deletion
HCFA-72—Medicare/Medicaid Program: Financial Assistance Agreement for End Stage Renal Disease (ESRD) Networks.	A. Description: This regulation would establish a formal mechanism (cooperative agreements) for funding ESRD Network Coordinating Councils. B. Why Significant: This regulation would steamline and standardize the funding process to make it more accountable. C. Regulatory Analysis: Not required. D. Need: To improve the financial management, efficiency, and accountability of ESRD Networks. E. Legal Basis: 45 CFR, Part 74. F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department for approval.	Spencer Schron, Acting Deputy Director, OSP, Rm. 2-B-2, Dogwood West Bldg., 1848 Gwynn Oak Ave., Baltimore, MD 21207, 301-594-0918.	Proposed Rule July-September 1980.
Technical Amendments: Chiropractors, Physical Therapists, and Speech Pathologists.	The regulations would conform definitions of physical therapist assistant and speech pathologist to other related regulations; clarify requirements for outpatient physical therapy and speech pathology services provided at a home health agency; and provide independent physical therapists and chiropractors the same appeal procedures currently available to other providers.		We plan to incorporate this regulation in an initiative under consideration entitled "Review and Appeal Amendments".
Reimbursement of Federally Funded Health Centers.	These regulations set forth the rules governing reimbursement under medicare for services covered under the Supplementary Medical Insurance Program that are furnished by federally funded health centers.		Deleted temporarily to coordinate policy with Rural Health Clinic reimbursement policy (HCFA-35).
Cost to Related Organizations	These regulations clarify existing policy on Medicare reimbursement for services, facilities, and supplies furnished to a provider of services by an organization related to a provider by common ownership or control. They also codify policy now in program instructions in manuals.		Incorporated in the regulations entitled "Reimbursement to Related Organizations" (HCFA-29).
Negotiated Rates for Lab Tests	This regulation sets a reasonable charge for injection services and for certain diagnostic laboratory tests.		Deleted temporarily. It will be incorporated in a broader policy initiative, currently under development, that would affect laboratory tests, and billing and reimbursement under Medicare and Medicaid.
Prospective Reimbursement Rate—End-State Renal Disease (ESRD).	This notice establishes a rate per treatment for outpatient maintenance dialysis treatments furnished to patients dialyzing in a provider or renal dialysis facilty.		Incorporated in the regulation entitled "Incentive Reimbursement for ESRD Services" (HCFA-31).
List of Medicaid Laboratory Tests	This regulation limits reimbursement under the Medicare and Medicaid programs for medical services, supplies, and equipment that do not generally vary significantly in quality from one supplier to another. Payments will be based on the lowest charge levels at which the services are widely and consistently available in a locality.		Incorporated in the regulation entitled "Proposed List of Additional Items and Services Subject to the Lowest Charge Level (HCFA-33).
Medicaid Utilization Control Penalty	This regulation specifies requirements for control over the utilization of inpatient institutional services in the Medicaid program. The regulation also specifies requirements States must meet to avoid reduced Federal matching; the content of quarterly reports; and the methods for making reductions of Federal matching.		Final rule was published on October 1, 1979.
Phvsician Reimbursement and Assignment	This regulation would propose changes in the current Medicare policy on assignment and reimbursement of physicians.		Deleted pending study of reasonable charge implementation and determination of whether changes are needed.
Corrections to Redesignation and Rewrite of Medicaid Regulations.	These amendments will make technical corrections to the Medicaid regulations that were rewritten and redesignated on September 29, 1978.		Incorporated in the regulation entitled "Medicaid Recodification: General Requirements" (HCFA-48)
Redesignation of Medicaid Administrative Requirements.	Certain administrative requirements for the Medicaid program renumbered to 42 CFR Chapter IV, Subchapter C, on March 23, 1979, are being amended to reflect public comments received.		Incorporate in the regulation entitled "Medicaid Recodification: General Requirements" (HCFA-48).
Target Reimbursement Date—End-Stage Renal Disease (ESRD).	This regulation provides a new optional method of Medicare reimbursement for the cost of home dialysis supplies, equipment and support services furnished to self-care home dialysis patients under the direct supervision of an approved provider or facility.		Final rule with comment period published on October 19, 1979.

Food and Drug Administration—Significant Regulations

Title	Summary	Contact	Decision quarter
FDA 1—Antigen E Assay—Potency Standards.	A. *Description:* This document establishes potency standards for short ragweed pollen extracts. Each final container of a lot of extract will be required to contain a minimum quantity of Antigen E relative to a reference preparation with a known quantity of Antigen E. B. *Why Significant:* The regulation establishes potency requirements for allergenic extracts. This will require manufacturers to conform to specific standards and assure the public of a uniform product. C. *Regulatory Analysis:* Not required. D. *Need:* To improve potency testing. E. *Legal Basis:* Section 351, 58 Stat. 702 42 U.S.C. 262. F. *Chronology:* Notice of proposed rulemaking was published August 3, 1979 (44 FR 45642). Comment period extended from October 2, 1979 to November 10, 1979. The final rule is currently under review by the Agency.	Michael Hooten, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Final Rule July-October 1980.
FDA 2—Limulus Amebocyte Lysate (LAL) Specific Manufacturing Standards.	A. *Description:* This document prescribes additional standards for manufacturing LAL. LAL, prepared from the circulating amebocytes of the horseshoe crab may be used as a reagent for *in vitro* testing to detect bacterial endotoxins in certain biological products and medical devices. B. *Why Significant:* The regulation establishes uniform manufacturing standards to assure production of a uniform product. This is necessary to assure uniform product performance in pyrogen testing. C. *Regulatory Analysis:* Not required. D. *Need:* To improve pyrogen testing. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The notice of proposed rulemaking was published on August 11, 1978 (43 FR 35731). The comment period closed October 10, 1978.	Michael Hooten, Regulations Branch (HFB-620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Final Rule April-June 1980.
FDA 3—Allergenic Source Material—Standards.	A. *Description:* This document prescribes additional criteria for source materials used in the manufacture of a final allergenic product. Specific requirements will be required for the propagation and maintenance of molds and certain animals. Inspection and recordkeeping requirements will apply to all manufacturers of allergenic products. B. *Why Significant:* The regulation establishes specific standards for certain source materials used to prepare allergenic extracts. This will assure product uniformity.	Michael Hooten Regulations Branch (HFB-620), Bureau of Biologics, Food and and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.	Proposed Rule July-October 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* To assure safety and identity of source material. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* Notice of proposed rulemaking was published September 26, 1978 (43 FR 43472). The comment period closed on November 26, 1978. A revised proposal is currently under review by the Agency.		
FDA 4—Radioallergosobent Test (RAST) Potency Test.	A. *Description:* This document proposes to amend the regulations to require that the RAST be used as a potency test for certain allergenic extracts. Presently, no reliable test is available for most extracts. Manufacturers were invited to attend a workshop at the Bureau on September 10, 1979. A collaborative study will be initiated. The results of the study will be used to develop the proposed rule. B. *Why Significant:* This regulation establishes a specific test to measure potency in a broad variety of allergenic extracts. The use of this test will result in a better measurement of potency. C. *Regulatory Analysis:* Not required. D. *Need:* To improve potency test. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the agency.	Michael Hooten, Regulations Branch, (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule July–September 1981.
FDA 5—Error and Accident Reports—Amend Blood GMPs.	A. *Description:* This document proposes that licensed and unlicensed blood establishments submit reports to Bureau of Biologics of errors and accidents that are imminent health hazards. The document also proposes that records of all errors and accidents, including those that are not imminent health hazards, be maintained. B. *Why Significant:* This regulation specifies certain reports required to be submitted by licensed and unlicensed blood establishments. It will provide information to determine the need for revising existing regulations, or developing new regulations. C. *Regulatory Analysis:* Not required. D. *Need:* The data will be used to judge adequacy of existing regulations. E. *Legal Basis:* Section 351, 58 Stat. 702 (42 U.S.C. 262). F. *Chronology:* The proposal is currently under review by the Agency.	Albert Rothschild, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule June–September 1980.
FDA 6—Reorganize Whole Blood Regulations.	A. *Description:* This document proposes to revise and reorganize Subpart A in Part 640 which prescribes additional standards for Whole Blood (Human). The regulations are being reorganized to reflect, insofar as possible, a logical sequence beginning with the collection of blood and progressing through storage, testing, labeling and issue. This document will also propose substantive amendments of the present requirements. B. *Why Significant:* This regulation will present an orderly arrangement of requirements for blood establishments to follow. It will assure the production of a safe and effective product and protect the health and safety of donors. C. *Regulatory Analysis:* Not required. D. *Need:* To increase donor and product safety and clarity of the regulations. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Richard Fisher, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule July–September 1980.
FDA 7—Uniform Blood Labeling	A. *Description:* This document proposes to amend the blood regulations as recommended by the American Blood Commission, Committee for Commonality in Blood Banking Automation. B. *Why Significant:* This regulation proposes uniform labeling requirements for blood and blood products. It will promote uniformity throughout the industry and provide increased safety to the public in blood transfusion. C. *Regulatory Analysis:* Not required. D. *Need:* To facilitate uniformity in blood labeling. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Steve Falter, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule July–September 1980.
FDA 8—Notification of FDA Regarding Adverse Reactions—Recordkeeping and Reporting Requirements.	A. *Description:* This document proposes to require that manufacturers notify FDA of adverse reactions from use of their products. B. *Why Significant:* This regulation will require industry to keep records and make reports on specific adverse reactions within specified time limits to the Agency. This information will assist the Agency in evaluating the continued safety, purity, potency and effectiveness of marketed products. C. *Regulatory Analysis:* Not required. D. *Need:* To increase FDA's effectiveness in regulating biological products. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* Notice of Availability of draft proposal was published April 24, 1979. The proposal is currently under review by the Agency.	Richard Fisher, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule April–June 1981.
FDA 9—Panel on Review of Allergenic Extracts-Product Effectiveness.	A. *Description:* This document proposes to place the subject material in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed products. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Authority:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Michael Hooten, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule January–March 1982.
FDA 10—Panel on Review of Viral Vaccines and Rickettsial Vaccines Product Effectiveness.	A. *Description:* This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed products. It will assure the public of receiving only those products found to be truly safe and effective.	Steve Falter, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Final Rule March–June 1981.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The notice of proposed rulemaking was published April 15, 1980 (45 FR 25652). The comment period closes on July 14, 1980.		
FDA 11—Panel on Review of Blood and Blood Products—Product Effectiveness.	A. *Description:* This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, and (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed products. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Steve Falter, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule January–March 1981.
FDA 12—Panel on Review of Bacterial Toxoids and Bacterial Vaccines With U.S. Standards of Potency—Product effectiveness.	A. *Description:* This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, and (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products. B. *Why Significant:* This regulation will establish the safety and effectiveness of currently marketed proudcts. It will assure the public of receiving only those products found to be truly safe and effective. C. *Regulatory Analysis:* Not required. D. *Need:* To bring products into conformance with current standards of safety and effectiveness. E. *Legal Basis:* Section 351, 58 Stat. 702, 42 U.S.C. 262. F. *Chronology:* The proposal is currently being drafted for review by the Agency.	Steve Falter, Regulations Branch (HFB–620), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.	Proposed Rule June–September 1981.
FDA 13—Bioresearch Monitoring; Standards for Institutional Review Boards for Clinical Investigations.	A. *Description:* This regulation will establish standards for the composition, operation, and responsibility of any institutional review board that reviews clinical investigations involving the use of products regulated by the Food and Drug Administration. B. *Why Significant:* The regulations will provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA by specifically defining the responsibilities of institutional review boards in clinical investigations. C. *Regulatory Analysis:* Not required. D. *Need:* To clarify existing regulations concerning institutional review boards that review clinical investigations involving new drug products and to extend those regulations to include boards that review investigations on other FDA-regulated products. The regulation will establish specific standards for the composition, operation, and responsibilities of a board in assuring protection of the rights and safety of subjects involved in clinical investigations and assuring the quality and integrity of the research data used to support the marketing of products regulated by FDA. E. *Legal Basis:* 21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c, 360f, 360h–360j, 361, 371(a), 376, 381; 42 U.S.C. 216, 262, 263b–263n. F. *Chronology:* A proposed rule was published on August 8, 1978 (43 FR 35186). On August 14, 1979, the proposal was withdrawn and reproposed (44 FR 47699). Public hearings were held in Bethesda, Maryland, on September 18, 1979, in San Francisco on October 3, 1979, and in Houston on October 16, 1979. The comment period closed on November 12, 1979.	John C. Petricciani, Associate Director for Clinical Research (HFB–4), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Rockville, MD 20205, 301–496–9320.	Final Rule October–December 1980.
FDA 14—Bioresearch Monitoring; Informed Consent.	A. *Description:* This regulation would establish a single set of informed consent requirements applicable to all investigators involved in investigational studies that either require prior FDA review or are later submitted to FDA in support of an application for a research or marketing permit. B. *Why Significant:* This regulation would clarify existing agency regulations governing informed consent and provide greater protection of the rights of human subjects involved in research activities that fall within the jurisdiction of FDA. C. *Regulatory Analysis:* Not required. D. *Need:* There has been an identifiable need to strengthen and clarify informed consent requirements as they apply to research that involves human subjects and is intended for submission to FDA. This regulation is designed to provide greater protection of the rights and safety of human subjects involved in research activities that fall within the jurisdiction of FDA. E. *Legal Basis:* 21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c, 360f, 360h–360j, 361, 371(a), 376, 381; 42 U.S.C. 216, 262, 263b–263n. F. *Chronology:* The proposed rule was published on August 14, 1979 (44 FR 47713). Public hearings were held in Bethesda, Maryland, on September 18, 1979, in San Francisco on October 3, 1979, and in Houston on October 16, 1979. The comment period closed on November 12, 1979.	John C. Petricciani, Associate Director for Clinical Research (HFB–4), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Rockville, MD 20205, 301–496–9320.	Final Rule October–December 1980.
FDA 15—Antibiotic Certification; Exemption of Dermatologic and Vaginal Drug Products.	A. *Description:* This regulation would exempt dermatologic and vaginal antibiotics from the requirement for batch certification. The bulk drugs used in manufacturing exempt products would still have to be either certified or released by FDA before being used in manufacturing, however. B. *Why Significant:* Manufacturers would no longer be required to submit to FDA samples and test results for individual batches and could distribute these drug products as a result of their own testing and without notification by FDA that a specific batch is certified. This action will provide more efficient utilization of FDA's staff resources, more efficient certification procedures, and will decrease manufacturers' production costs by eliminating certification expenses. C. *Regulatory Analysis:* Not required.	Philip L. Paquin, Chief, General Regulations, Development Branch (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.	Final Rule April–June 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* The current state of manufacturing technology and the high level of compliance with existing monograph requirements demonstrated by manufacturers meet the requirements for consistency set forth in Section 507(c) of the Federal Food, Drug, and Cosmetic Act and warrant exempting this class of antibiotics from batch certification. E. *Legal Basis:* 21 U.S.C. 355, 357. F. *Chronology:* The proposed rule was published on July 6, 1979 (44 FR 39469). The comment period closed on September 4, 1979.		
FDA 16—Antibiotic Certification; Exemption of Systemic Drug Products.	A. *Description:* This proposal would exempt certain specific classes of systemic antibiotics, as well as specific products by manufacturer, from the certification requirements of 21 U.S.C. 357. The classes that will be proposed for exemption will be those that, in the judgement of the Commissioner of Food and Drugs, no longer require certification to ensure safety and efficacy of use. B. *Why Significant:* This action will further implement FDA's goal of improving the certification program. Manufacturers of certain classes of systemic antibiotics would be exempted from obtaining certification from FDA of each manufactured batch. Thus, they would not be required to submit to FDA samples of test results for individual batches and could distribute these drug products as a result of thier own testing and without notification by FDA that a specific batch is certified. This would result in a decrease in manufacturers' production costs. C. *Regulatory Analysis:* Not required. D. *Need:* The current state of manufacturing technology and the high level of compliance with existing monograph requirements demonstrated by manufacturers meet the requirements for consistency set forth in Section 507(c) of the Federal Food, Drug, and Cosmetic Act and warrant exempting certain of this class of antibiotics from batch certification. E. *Legal Basis:* 21 U.S.C. 355, 357. F. *Chronology:* The Proposed Rule is being prepared.	Philip L. Paquin, Chief, General Regulations Development Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.	Proposed Rule July–September 1980.
FDA 17—Bioresearch Monitoring; Obligations of Sponsors and Monitors of Clinical Investigations.	A. *Description:* These regulations would establish procedures to be followed by a sponsor and a monitor before initiating, and during the course of, a clinical investigation involving the use of a drug, medical device, food or color additive, or electronic product. B. *Why Significant:* The regulations will provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA by specifically defining the responsibilities of sponsors and monitors in clinical investigations. C. *Regulatory Analysis:* Not required. D. *Need:* There has been an identifiable need to set forth procedures that would raise the level of the quality of clinical research by more thorough and supervisional contact between the sponsor and investigators. These regulations will define specifically the responsibilities of sponsors and monitors in assuring protection of the rights and safety of subjects involved in clinical investigations and assuring the quality and integrity of the research data used to support the marketing of products regulated by FDA. E. *Legal Basis:* 21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360b–360f, 360h–360j, 361, 371(a), 376, 381, 42 U.S.C. 216, 262, 263b–263n. F. *Chronology:* The proposed rule was published on September 27, 1977 (42 FR 29412). The comment period closed on December 27, 1977.	Marilyn L. Watson, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.	Final Rule April–June 1980.
FDA 18—Bioresearch Monitoring; Obligations of Clinical Investigators.	A. *Description:* These regulations would clarify existing regulations governing the conduct of persons who conduct clinical investigations on new drug products, and it extends the regulations to include persons who conduct clinical investigations on medical devices, food or color additives, and electronic products. B. *Why Significant:* The regulations will provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA by specifically defining the responsibilities of clinical investigators. C. *Regulatory Analysis:* Not required. D. *Need:* There has been an identifiable need to clarify existing regulations concerning persons who conduct clinical investigations on new drugs and to extend those regulations to include persons who conduct clinical investigations on other FDA-regulated products. These regulations are designed to assure the validity and reliability of clinical data submitted to FDA, provide greater protection of the rights and safety of subjects involved in the investigations, and provide agency-wide regulatory standards for conducting clinical investigations more efficiently and effectively. E. *Legal Basis:* 21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360b–360f, 360h–360j, 361, 371(a), 376, 381, 42 U.S.C. 216, 263b–263n. F. *Chronology:* The proposed rule was published on August 8, 1978 (43 FR 35223). The comment period closed on November 6, 1978, and on November 14, 1978 was extended to December 6, 1978.	Marilyn L. Watson, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640..	Final Rule October–December 1980.
FDA 19—Drug Efficacy Study Implementation; Abbreviated New Drug Applications for Post-1962 Drugs.	A. *Description:* This proposal would permit applicants to file abbreviated new drug applications (ANDA's) for products identical to approved post-1962 drugs and to omit certain reports that are required in a full NDA to show safety and effectiveness of the product. It would apply only to certain drug products specified by FDA. At present, ANDA's are permitted only for pre-1962 drugs that FDA has found are suitable for that kind of submission. B. *Why Significant:* This will reduce duplicative human testing of drugs and also reduce the cost to the manufacturer of getting the affected drugs on the market. By increasing competition among drug manufacturers, it may reduce drug costs to the consumer. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* This action will increase competition among drug sources when patients have expired, and lower costs of drug products. E. *Legal Basis:* 21 U.S.C. 355, 371(a). F. *Chronology:* The proposed rule is being prepared.	Jean Mansur, Deputy Assistant Director for Regulatory Affairs, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.	Proposed Rule September–November 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 20—Drug Quality Assurance; Current Good Manufacturing Practice for Large Volume Parenterals.	A. *Description:* These regulations would establish good manufacturing practice for a class of parenteral drug products that can be characterized as terminally sterilized aqueous solutions of 100 ml or more. They would supplement the more general "umbrella" current good manufacturing practice regulations that apply to all drug products. B. *Why Significant:* Large volume parenteral drug products are unique in both use and production. The primary use of many of these products is not based upon traditional drug therapy, but rather on the urgent need of a patient for basic body constituents. Because LVP drug products are usually administered to seriously weakened persons and generally in large volume, a high level of drug quality is required. C. *Regulatory Analysis:* Not required. D. *Need:* To help assure the quality and integrity of these drug products. E. *Legal Basis:* 21 U.S.C. 351, 352, 355, 357, 371. F. *Chronology:* The proposed rule was published on June 1, 1976 (31 FR 22202). The comment period closed on September 29, 1976.	Philip L. Paquin, Chief, General Regulations, Development Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.	Final Rule July–September 1980.
FDA 22—New Drug Evaluation; Public Disclosure of Specifications.	A. *Description:* This regulation would provide for the disclosure of specifications submitted to the agency by the manufacturer of a drug product, unless the specifications serve no regulatory or compliance purpose, are exempt as trade secrets, and have not previously been publicly disclosed. B. *Why Significant:* The public availability of drug specifications will help to assure that all manufacturers of the same drug product meet the same standards of identity, strength, quality, and purity. Consumers and physicians will be able to select a brand of drug product knowing that the standards it is required to meet are comparable to those of other versions of the same drug product. Disclosure will permit the official compendia to maintain current standards applicable to the products of all manufacturers. Consistent compendial specifications and methods will contribute to improving the enforcement programs of Federal, State, and local regulatory agencies who must assure full compliance with legal requirements for drug products. C. *Regulatory Analysis:* Not required. d. *Need:* There are drugs for which specifications are not publicly available. The regulation would resolve this problem. E. *Legal Basis:* 21 U.S.C. 321 et seq., 42 U.S.C. 201 et seq., 5 U.S.C. 552. F. *Chronology:* The proposed rule was published on July 15, 1977 (42 FR 36485). The comment period closed on September 13, 1977.	Edwin V. Dutra, Jr., Precedent Regulations and Legislative Activities Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.	Final Rule April–June 1980.
FDA 23—New Drug Evaluation; Revision of IND/NDA Regulations.	A. *Description:* This proposal would revise the regulations on investigational new drugs (IND's) and new drug applications (NDA's) to improve the efficiency of FDA's operation and to update and refine its internal policies in reviewing, processing, and communicating with sponsors and applicants on IND's and NDA's. The revision would more formally structure the IND phase so that if a drug reaches the NDA stage it would be essentially approvable. B. *Why Significant:* These revisions can be expected to aid IND sponsors and NDA applicants be expediting the review process, reducing paperwork, and redefining the IND and NDA requirements in line with FDA's experiences in current practices. They should also result in simpler and more useful reporting requirements. C. *Regulatory Analysis:* Not required. D. *Need:* Experience with these regulations after a number of years has identified areas where the IND/NDA procedure and requirements need updating and improving. E. *Legal Basis:* 21 U.S.C. 355, 357, 371(a). F. *Chronology:* A Notice of Public meeting was published on October 12, 1979 (44 FR 58919).	Robert Frankel, Deputy Associate Director for New Drug Evaluation, (HFD–101), Bureau of Drugs, Food and Drugs Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6062.	Proposed Rule January–March 1981.
FDA 24—Prescription Drug Advertising: Revision of Regulations.	A. *Description:* This notice of intent will announce that FDA intends to propose revisions to the present regulations to provide clear requirements for modern advertising techniques and to clarify and establish additional requirements for promotional labeling. B. *Why Significant:* Although some of the revisions to be proposed represent requirements not specifically included in the existing regulations, in many instances they are requirements that have been considered implicit in the regulations or have been agency policy. By setting clear requirements, the revisions will enable drug manufacturers to know what is and is not permissible advertising. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are not up-to-date inasmuch as advertising methods have changed drastically since the current regulations were published, primarily in the use of electronic media (radio, television, and tapes) in addition to the printed media. E. *Legal Basis:* 21 U.S.C. 321(n), 352, 371. F. *Chronology:* The Notice of Intent is being prepared.	Paul O. Fehnel, Chief, Precedent Regulations and Legislative Activities Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.	Notice of Intent October–December 1980.
FDA 25—Prescription Drug Labeling; Policy on Patient Labeling.	A. *Description:* This regulation would require the manufacturer of a prescription drug product to prepare and distribute labeling that is intended for the patient. The dispenser of the product would be required to provide the labeling to the patient when the product is dispensed. B. *Why Significant:* The regulation is expected to help patients use prescription drug more safely and effectively. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To make users of drugs aware of the risks and benefits of drugs prescribed for them and to promote their safe and effective use. E. *Legal Basis:* 21 U.S.C. 352, 353, 355, 357, 371; 42 U.S.C. 262.	Michael C. McCrane, General Regulations Development Branch, (HFD–30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.	Final Rule October–December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronolpgy:* The proposed rule was published July 6, 1979 (44 FR 40016). A notice of public hearings on the proposed rule was published August 10, 1979 (44 FR 47104). Public hearings were held in Chicago on September 10, 1979, in Los Angeles on September 12, 1979, and in Washington, D.C. on September 14, 1979. On October 12, 1979 (44 FR 58918) the comment period was extended to November 5, 1979.		
FDA 26—Biopharmaceutics Programs; Therapeutic Equivalence Evaluations.	A. *Description:* This regulation would add to FDA's public information regulations a statement that a listing of approved prescription drug products is available. B. *Why Significant:* It will be an aid to all prescribers, dispensers, and purchasers in their efforts to lower drug costs. C. *Regulatory Analysis:* Not required. D. *Need:* To provide a list of approved prescription drug products with their therapeutic equivalence evaluations to assist prescribers, dispensers, and purchasers in their efforts to benefit from generic substitution laws and lower drug costs. E. *: Legal Basis:* 21 U.S.C. 321 et seq., 42 U.S.C. 201 et seq., 5 U.S.C. 552. F. *Chronology:* The proposed rule was published on January 12, 1979 (44 FR 2932). The comment period closed on April 12, 1979	Howard Muller, General Regulations Development Branch, (HFD-30), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.	Final Rule April-June 1980.
FDA 28—Cholesterol-Free Egg Substitute	A. *Description:* This proposed rule will address the issue of the use of the term cholesterol-free in the name of food products. B. *Why Significant:* This issue concerns a matter on which there is substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* To establish consistency in labeling of cholesterol content of foods. E. *Legal Basis:* Sections 201(n), 403(a), 701(a), 52 Stat. 1041, as amended; 1047-1048, as amended; 1055 (21 U.S.C. 321(n) 343(a), and 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Proposed Rule July-September 1980.
FDA 29—Plant Protein—Common or Usual Names for Foods, Vegetable Protein Products Which Resemble and Substitute for Meats, Seafood, Poultry, Eggs, or Cheese.	A. *Description:* This regulation will establish common or usual names for vegetable protein products and names and definitions of nutritional equivalence for substitutes for the five major protein foods. B. *Why Significant:* There is substantial public interest in having consistent labeling requirements regarding the nutrient content of vegetable protein substitutes. C. *Regulatory Analysis:* Not required. D. *Need:* To provide consistency in the labeling and in the nutrient content of vegetable protein substitutes for the five major protein foods. E. *Legal Basis:* Sections 201(n), 403, 701, 52 Stat. 1041, as amended; 1047-1048, as amended; 1055-1056, as amended (21 U.S.C. 321(n) 343, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* Tentative final rule was published on July 14, 1978 (43 FR 30472). The comment period closed on November 13, 1978.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Final Rule October-December 1980.
FDA 30—Sugar Labeling of Foods.....	A. *Description:* This proposed rule would amend the nutritional labeling format so that the carbohydrate declaration will have subsets for simple sugars, as well as complex sugar. B. *Why Significant:* There is substantial public interest in having a declaration of sugar content. C. *Regulatory Analysis:* Not required. D. *Need:* To notify the public of the type and amount of carbohydrate being taken in. E. *Legal Basis:* Sections 201(n), 403, 701, 52 Stat. 1041, as amended; 1047-1048, as amended; 1055-1056, as amended (21 U.S.C. 321(n), 343, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently being drafted in the Bureau of Foods.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Proposed Rule July-September 1980.
FDA 33—Aflatoxin in Peanuts.....	A. *Description:* This final rule will set tolerances for aflatoxin in peanuts. B. *Why Significant:* There is a public health concern regarding the amount of aflatoxin found in peanuts. C. *Regulatory Analysis:* Not required. D. *Need:* To prevent avoidable residues of aflatoxins in peanuts and peanut products. E. *Legal Basis:* Sections 306, 402, 406, 701, 52 Stat. 1045-1046, 1049, 1055-1056, as amended; and 72 Stat. 948 (21 U.S.C. 336, 342, 346, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on December 6, 1974 (39 FR 42748). Notice of availability of the assessment of estimated risk resulting from aflatoxins in consumer peanut products and notice of reopening of the comment period published on March 3, 1978 (43 FR 8808). Extension of comment period was published on April 18, 1978 (43 FR 16349). The comment period closed May 17, 1978. This final rule is currently under review.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245-3092.	Final Rule April-June 1980.
FDA 34—Color Certification—Procedures for Non-Conforming Batches.	A. *Description:* This notice would establish guidelines for the certification of color additives to prescribe procedures for the rejection of samples submitted for certification on the basis of analytical response, when the substance causing the response is unidentified. B. *Why Significant:* Procedures for the certification of colors should be uniform and industry should be fully advised of them. C. *Regulatory Analysis:* Not required. D. *Need:* To establish guidelines which formalize the procedures used in certification of colors. E. *Legal Basis:* Section 706 (21 U.S.C. 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This notice is currently being drafted in the Bureau of Foods.	Gerald McCowin, Petitions Control Branch (HFF-334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-5690.	Notice of Intent April-June 1980.
FDA 35—Use of Food Preservatives BHT	A. *Description:* This final rule will establish an interim food additive for BHT. B. *Why Significant:* BHT is a widely used preservative heretofore considered GRAS and about which substantial safety questions have been raised, rendering it subject to the food additive law. Recent re-evaluation of available data indicates that additional information is required to substantiate that its use in food can continue to be deemed safe. C. *Regulatory Analysis:* Not required.	Dr. Corbin Miles, GRAS Review Branch (HFF-335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472-4750.	Final Rule July-September 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* To determine if food preservative BHT can continue to be deemed safe for use in foods. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug and Cosmetic Act. F. *Chronology:* The proposed rule published on May 31, 1977 (42 FR 27603). The comment period closed July 26, 1977.		
FDA 36—Procedural Regulations for the Cyclic Review and Priority Listing of Food and Color Additives.	A. *Description:* This proposed rule would establish the procedure for the cyclic review and priority listing of food additives. B. *Why Significant:* The FDA believes that industry should be put on notice as to the procedures to be followed and priorities to be set regarding the cyclic review of food and color additives. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To give notice as to the order in which food additives will be reviewed under the cyclic review process. E. *Legal Basis:* Sections 201(s), 409, 701(a), and 706, 52 Stat. 1055; 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Advance Notice of Proposed Rulemaking April–June 1980.
FDA 37—Net Weight	A. *Description:* This proposed rule would quantify reasonable variations for foods subject to moisture loss. B. *Why Significant:* There is substantial public interest because of possible economic deception. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. Need: To protect the consumer from economic deception. E. *Legal Basis:* Sections 201(n), 403, 701, 52 Stat. 1041, as amended; 1046–1048, as amended; 1055–1056, as amended by 70 Stat. 919; and 72 Stat. 948 (21 U.S.C. 231(n), 343, and 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Elizabeth Campbell, Guidelines and Compliance Research Branch (HFF–312), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245–3092.	Proposed Rule April–June 1980.
FDA 38—Caffeine	A. *Description:* FDA intends to issue proposals to determine the status of caffeine in soft drinks. B. *Why Significant:* This issue concerns a matter on which there is substantial public interest. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* The Select Committee on GRAS Substances of the Federation of American Societies for Experimental Biology (FASEB) has recommended that the FDA interim list direct food uses. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784–1788, as amended; 52 Stat. 1055 (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Corbin Miles, GRAS Review Branch (HFF–335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–4750.	Proposed Rule July–September 1980.
FDA 39—GRAS Whey—Whey Products and Hydrogen Peroxide Used in Whey Treatments.	A. *Description:* This final rule will establish common or usual names and affirm the GRAS status for whey and whey products. This is a result of ten GRAS petitions. These dried whey products have numerous potential uses in food including sources of milk protein and use as milk solids where not exempted by food standards. B. *Why Significant:* There is substantial public interest in establishing uniform nomenclature and safe uses for these milk protein products. C. *Regulatory Analysis:* Not required. D. *Need:* To establish safe uses of certain milk proteins. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on June 22, 1979 (44 FR 36416). The comment period closed on October 29, 1979.	Dr. Corbin Miles, GRAS Review Branch (HFF–335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–4750.	Final Rule April–June 1980.
FDA 40—Retortable Pouch	A. *Description:* This final rule will provide for safe use of components of laminated pouch intended to contact food under retort conditions. B. *Why Significant:* The retortable pouch could be used in place of the "tin can" in the marketing of many foods. C. *Regulatory Analysis:* Not required. D. *Need:* To protect the public health. E. *Legal Basis:* Section 409, 72 Stat. 1786 (21 U.S.C. 348) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The notice of filing for several petitions published on November 7, 1975 (40 FR 52076), February 10, 1976 (41 FR 5861), September 13, 1976 (41 FR 38802), February 10, 1978 (43 FR 5891), April 7, 1978 (43 FR 14737), and June 23, 1978 (43 FR 27236). The final rule was published on January 15, 1980 (45 FR 2842). The objection period closed on February 14, 1980. The objections are under review.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Notice Ruling on Objections October–December 1980.
FDA 41—Xylitol	A. *Description:* This proposed rule would determine the status of the use of Xylitol in specific dietary products. B. *Why Significant:* Xylitol is a sweetener. There is much industry and consumer interest in sucrose substitutes. C. *Regulatory Analysis:* Not required. D. *Need:* Data has been submitted to the FDA suggesting that Xylitol may not be safe. E. *Legal Basis:* Sections 409, 701(a), 52 Stat. 1055; 72 Stat. 1785–1788 (21 U.S.C. 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Proposed Rule July–September 1980.
FDA 42—Food and Color Additives—Risk Assessment.	A. *Description:* This policy statement would establish standard procedures for assessing the safety of food and color additives. B. *Why Significant:* The risk assessment procedure to be used is likely to be of particular public interest with regard to how it addresses food and color additives that may contain carcinogenic substances. C. *Regulatory Analysis:* Not required. D. *Need:* To clarify agency policy on carcinogenic constituents of food and color additives. E. *Legal Basis:* Sections 201(s), 201(t), 402, 409, 701, 52 Stat. 1046–1047, as amended; 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 321(t), 342, 348, 371) of the Federal Food, Drug, and Cosmetic Act.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Policy Statement April–June 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* The Policy Statement is currently being drafted in the Bureau of Foods.		
FDA 43—Trichloroethylene	A. *Description:* This final rule will prohibit trichloroethylene in human food because it may pose a risk of cancer. B. *Why Significant:* There is substantial FDA interest due to public health concerns indicated above. C. *Regulatory Analysis:* Not required. D. *Need:* To protect the public health. E. *Legal Basis:* Sections 201(s), 402, 409, 701, 52 Stat. 1046–1047, as amended; 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 342, 348, 371) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on September 27, 1977 (42 FR 49465). The commont period closed on November 28, 1977.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Final Rule October–December 1980.
FDA 44—Use of Chlorine Gas in an Aqueous Solution.	A. *Description:* This proposed rule would establish GRAS conditions of use for chlorine food sanitizers. This is the result of twelve GRAS petitions for uses of chlorine, hypochlorus acid, and chlorine dioxide as food sanitizing solutions. B. *Why Significant:* There is a substantial public health issued involved. C. *Regulatory Analysis:* Not required. D. *Need:* To establish safe uses of chlorine in a sanitizing agent. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Corbin Miles, GRAS Review Branch (HFF–335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–4750.	Proposed Rule July–September 1980.
FDA 45—Nitrite as a Color Additive in Bacon	A. *Description:* This proposed rule would resolve the issue regarding nitrite as a color additive in bacon. B. *Why Significant:* There is substantial public interest and controversy regarding the use of nitrite in bacon. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To clarify the status of nitrite as a color additive in bacon. E. *Legal Basis:* Sections 201(s), 201(t)(1), 402(a), 701(a), 706, 72 Stat. 1784; 74 Stat. 397, 52 Stat. 1046, 1055–1056, as amended (21 U.S.C. 321(s), 321(t)(1), 342(a), 371(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule was published December 21, 1979. (44 FR 75659). The comment period closed on May 19, 1980.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Final Rule July–September 1980.
FDA 46—Prior Sanction Status of Nitrites in Poultry Products.	A. *Description:* this proposed rule would resolve the issue regarding whether there is a prior sanction for nitrites in poultry products. B. *Why Significant:* There is substantial interest and controversy in the legal status of nitrites. C. *Regulatory Analysis:* Not required. D. *Need:* To protect the public health. E. *Legal Basis:* Sections 201(s), 201(t)(1), 402(a), 701(a), 706, 72 Stat. 1784; 74 Stat. 397; 52 Stat. 1046, 1055–1056, as amended (21 U.S.C. 321(s), 321(t)(1), 342(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule was published on December 21, 1979. (44 FR 75662). The comment period closes on June 18, 1980.	Gerald McCowin, Petitions Control Branch (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Final Rule July–September 1980.
FDA 47—Safety of Food Ingredients Sucrose and Corn Sugar.	A. *Description:* The proposed rule would rule on the GRAS status of sucrose and corn sugar. B. *Why Significant:* There is much consumer concern about the health implications of consumption of sucrose and corn syrup. C. *Regulatory Analysis:* Not required. D. *Need:* To re-evaluate the safety of all GRAS ingredients. E. *Legal Basis:* Sections 201(s), 409, 701(a), 52 Stat. 1055 (21 U.S.C. 321(s), 348, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Dr. Corbin Miles, GRAS Review Branch (HFF–335), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–4750.	Proposed Rule October–December 1980.
FDA 48—Optional Ingredient Labeling Regarding Certain Food Standards.	A. *Description:* This proposed rule would revise certain food standards to require that all optional ingredients be labeled in accord with 21 CFR 101. B. *Why Significant:* There is substantial public interest in having all optional ingredients properly labeled. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To promote honesty and fair dealing in the interest of consumer. E. *Legal Basis:* Sections 401, 701(e), 52 Stat. 1046, as amended; 70 Stat. 919, as amended (21 U.S.C. 341, 371(e)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Dr. Prince Harrill, Deputy Director, Division of Food Technology, (HFF–211), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245–1164..	Proposed Rule April–June 1980.
FDA 49—National Shellfish Safety Program	A. Description: A notice to withdraw the proposed National Shellfish Safety Program regulation and a proposal to continue the voluntary National Shellfish Program. B. *Why Significant:* An improved voluntary National Shellfish Program would help ensure the safety and wholesomeness of shellfish harvested in waters of participating states. C. *Regulatory Analysis:* Not required. D. *Need:* To improve the voluntary National Shellfish Program. E. *Legal Basis:* Sections 402, 403, 701(a), Pub. L. 717; 52 Stat. 1046–1048, 1055, as amended (21 U.S.C. 342, 343, 371(a)) of the Federal Food, Drug, and Cosmetic Act; Sections 301, 308, 311, 361, Pub. L. 410; 58 Stat. 691, 693, 703; 74 Stat. 364, as amended (42 U.S.C. 241, 242, 243, 246) of the Public Health Service Act. F. *Chronology:* The proposed rule published on June 19, 1975 (40 FR 25916). The comment period closed November 13, 1975.	David Clem, Shellfish Sanitation Branch, (HFF–417), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245–1557.	Notice of Intent/Proposed Rule April–June 1980.
FDA 50—Dietary Supplement of Vitamins and Minerals.	A. *Description:* This proposed rule would establish a regulation for vitamin/mineral nutritional supplements and the labeling requirements. B. *Why Significant:* There is substantial public concern over the possibility that the availability of vitamin and mineral supplements may be in some way restricted by this regulation. C. *Regulatory Analysis:* Not required. D. *Need:* To make available products and labeling information adequate for consumers to regulate their own intake of vitamins and minerals. E. *Legal Basis:* Section 201(n), 403 (a) and (j), 701 (a) and (e), 52 Stat. 1041, as amended; 1047–1048, as amended (21 U.S.C. 321(n), 343 (a) and (j), 371(n) and (e) of the Federal Food, Drug, and Cosmetic Act.	Dr. Allen Forbes, Associate Director, Nutrition and Food Sciences, (HFF–200), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245–1561.	Proposed Rule April–June 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	F. *Chronology:* The proposed rule is currently under review.		
FDA 51—Labeling of Sodium and Potassium Content of Foods.	A. *Description:* This proposed rule would amend § 105.69 ("foods used to regulate sodium- and potassium-intake") to change the present mode of declaring sodium content and to add a description of how potassium content is also to be declared. There shall also be a new paragraph in § 101.17 ("Food Labeling Warning statements") to provide for warnings regarding potassium content on labels of some salt substitutes. B. *Why Significant:* There is substantial public interest in and a health need for consumers being able to regulate their own intake of salts. C. *Regulatory Analysis:* Not required. D. *Need:* To give consumers an opportunity to regulate their intake of sodium acid potassium. E. *Legal Basis:* Sections 201 (n) and (s), 402(a)(2)(c), 403(a), 409(c)(1)(a), and 701(a) (U.S.C. 321 (n) and (s), 342(a)(2)(c), 343(a), 348(c)(1)(a), and 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently being drafted in the Bureau of Foods.	Dr. Allen Forbes, Associate Director, Nutrition and Food Sciences, (HFF–200), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245–1561.	Proposed Rule July–September 1980.
FDA 52—Lead Acetate	A. *Description:* This proposed rule would act upon a color additive petition for the use of lead acetate as a hair color. B. *Why Significant:* There is substantial interest in determining whether the use of lead acetate as a hair color is safe. This touches upon other questions regarding lead toxicity. C. *Regulatory Analysis:* Not required. D. *Need:* To determine whether lead acetate can safely be used as a hair dye ingredient. E. *Legal Basis:* Sections 706, 74 Stat. 399–403, as amended (21 U.S.C. 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently being drafted in the Bureau of Foods.	Geral McCowin, Petitions Control Branch, (HFF–334), Bureau of Foods, Food and Drug Administration, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–5690.	Proposed Rule April–June 1980.
FDA 54—Bubble Bath Products Warning	A. *Description:* On January 28, 1977, a notice was published proposing a required caution statement on labels of cosmetics bubble bath products. The caution statement was proposed in light of many consumer complaints of rashes and genito-urinary tract infections. The term "bubble bath products" is defined for the purpose of the regulation. B. *Why Significant:* There is substantial FDA interest in informing consumers of possible problems which may occur while using these products. C. *Regulatory Analysis:* Not required. D. *Need:* To caution the consumers as to possible problems which may occur while using these products. E. *Legal Basis:* Sections 201(n), 601, 602, 701(a), 52 Stat. 1041, as amended; 1054, as amended; 1055 (21 U.S.C. 321(n), 361, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule published on January 28, 1977 (42 FR 5368). The comment period closed on April 29, 1977. The final rule is currently under review.	H. J. Eiermann, Director, Division of Cosmetic Technology, (HFF–440), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 245–1530.	Final Rule April–June 1980.
FDA 55—Procedural Regulations for Cyclic Review of Animal Drugs.	A. *Description:* This proposed rule would establish procedures and priorities for cyclic review. B. *Why Significant:* The FDA believes it is important that industry be put on notice, as to the procedures to be followed and priorities to be set regarding the cyclic review of animal drugs. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To set procedures and priorities for cyclic review. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 343–351 (21 U.S.C. 360, 371(a)) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule is currently being reviewed.	Dr. Bob Scheuplein, Chief, Food Animal Additive Staff (HFF–154), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 472–5760.	Proposed Rule March–June 1980.
FDA 56—Sensitivity of Method	A. *Description:* This final rule would establish criteria and procedures for evaluating assays for carcinogenic residues in animal-derived food. B. *Why Significant:* Industry needs guidelines as to what human safety data is required by FDA for new animal drug approval. C. *Regulatory Analysis:* Yes, being conducted. D. *Need:* To facilitate a determination of the safety of drugs intended for food producing animals. E. *Legal Basis:* Sections 402, 403, 409, 512, 701(a), 706, 52 Stat. 1046–1048, as amended; 1055, 72 Stat. 1785–1788, as amended; 74 Stat. 399–403, as amended, 82 Stat. 343–351 (21 U.S.C. 342, 343, 348, 360(b), 371(a), 376) of the Federal Food, Drug, and Cosmetic Act. F. *Chronology:* The proposed rule was published on March 20, 1979 (44 FR 17070). The comment period closed on July 18, 1979. Notice of hearing published on April 20, 1979 (44 FR 23538). Hearing was held on June 4, 1979.	Bob Scheuplein, Chief, Food Animal Additive Staff (HFF–154), Bureau of Foods, Food and Drug Administration, 200 C Street, S.W., Washington, D.C. 20204, (202) 472–5760.	Final Rule July–September 1980.
FDA 58—Classification of Preenactment Devices.	A. *Description:* These regulations classify all medical devices marketed prior to May 28, 1976 into three regulatory control categories. The classifications are based on the recommendations of eight expert advisory panels. B. *Why Significant:* The classification regulations will determine the extent to which a device must be regulated to assure its safety and effectiveness. The classification regulations advise manufactuers whether their devices are subject to general controls, performance standards, or premarket approval. C. *Regulatory Analysis:* Not required. D. *Need:* To implement sections 513 (c) and (d) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C 360c (c) and (d). F. *Chronology:* Final Regulations published: Neurological Devices, September 4, 1979 (44 FR 51726); Cardiovascular, February 5, 1980 (45 FR 7904); OB/GYN, February 26, 1980 (45 FR 12682). Proposed rules published: General Hospital, August 24, 1979 (44 FR 49644), comment period closed October 23, 1979; Physical medicine, August 28, 1979 (44 FR 50458), comment period closed October 29, 1979; and Hematology/Pathology, September 11, 1979 (44 FR 52590), comment period closed November 13, 1979; Anesthesiology, November 2, 1979 (44 FR 63292), comment period closed January 2, 1980; Microbiology/Immunology, April 22, 1980 (45 FR 27204), comment period closes June 23, 1980.	Robert S. Kennedy, Associate Director for Device Evaluation (HFK–400), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427–7230.	Final Rule October–December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 59—Regulations to Require Premarket Approval.	A. *Description:* After classification has been completed for each Class III preenactment device, section 515(b) of the Medical Device Amendments requires promulgation of regulations that call for the submission of premarket approval applications. B. *Why Significant:* The regulations will contain information on hazards from use of the device to be eliminated or reduced by premarket approval, and the benefit to the public from use of the device. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement section 515(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360e(b). F. *Chronology:* The proposal is currently being prepared.	Keith Lusted, Premarket Approval Coordinator (HFK-402), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Proposed Rule July-September 1980.
FDA 60—Premarket Approval Procedural Regulation.	A. *Description:* This regulation will provide procedural requirements for submission of premarket approval applications, including safety and effectiveness requirements for all Class III medical devices. B. *Why Significant:* The regulation is essential to ensure that FDA receives adequate information on the safety and effectiveness of all Class III devices. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To implement section 515 of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360e. F. *Chronology:* The proposal is currently under review.	Keith Lusted, Premarket Approval Coordinator (HFK-402), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Proposed Rule July-September 1980.
FDA 61—Product Development Protocol.....	A. *Description:* This guideline will set forth suggested procedures for, and contents of, product development protocols to enable manufacturers to develop protocols in lieu of submitting separte investigational device exemption applications (IDEs) and premarket approval applications (PMAs). B. *Why Significant:* The PDP procedures will be of great assistance to the rapid development of innovative devices because it should be less expensive than the conventional two-step investigation and premarket approval procedure. The PDP procedure should be of great assistance to the small device manufacturers. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 515(f) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360e(f). F. *Chronology:* The notice is currently under review.	Keith Lusted, Premarket Approval Coordinator (HFK-402), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Notice of Intent July-September 1980.
FDA 64-Restricted Device Regulation.....	A. *Description:* This regulation will establish a criteria for manufacturers to determine whether a device is a restricted device and thus subject to certain labeling requirements as set forth in the regulation. B. *Why Significant:* The regulation will ensure that all restricted devices are subject to uniform labeling requirements. Once the regulation becomes a final rule, FDA inspectors will have access to manufacturing files concerning restricted devices. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 520(e) of the Medical Device Amendments of 1976 and adhere to the decision of the Courts in: *Becton, Dickinson and Company v. FDA*, 589 F.2d 1175 (2d Cir. 1978); and *In the Matter of Establishment Inspection of Portex, Inc., FDA, Appellant*, 595 F.2d 84 (1st Cir. 1979) E. *Legal Basis:* 21 U.S.C. 360j(e). F. *Chronology:* The proposal is currently under review.	Michael Lidsky, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Proposed Rule July-September 1980.
FDA 65—Mandatory Experience Reporting.....	A. *Description:* The regulation will set forth mandatory reporting requirements for manufacturers and distributors concerning devices which cause or could cause deaths or injuries, or are the subject of a corrective action. B. *Why Significant:* The regulation will provide greater patient protection by ensuring that FDA receives information on devices that are unsafe or ineffective. C. *Regulatory Analysis:* Not required. D. *Need:* To implement section 519 of the Medical Device Amendments of 1976 and enable FDA to monitor the safety of devices. E. *Legal Basis:* 21 U.S.C. 360i. F. *Chronology:* The proposal is currently under review.	Chester Reynolds, Chief, Device Experience Branch (HFK-125); Bureau of Medical Devices; Food and Drug Administration, 8757 Georgia Avenue; Silver Spring, MD 20910; (301) 427-8100.	Proposed Rules July-September 1980.
FDA 66—Maximum Residue Limits for Ethylene Oxide, Ethylene Chlorhydrin, and Ethylene Glycol.	A. *Description:* This regulation will impose residue limits on the use of ethylene oxide as a sterilant for certain drugs and devices by: (1) Establishing maximum residue limits for ethylene oxide and its two major reaction products; and (2) Maximum daily levels of exposure for drug products for ethylene oxide and its two major reaction products. B. *Why Significant:* The regulation addresses an issue of substantial public interest and controversy—the continued use of ETO at the levels of use proposed by FDA. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* To develop safe levels of use for ethylene oxide, ethylene chlorhydrin, and ethylene glycol. E. *Legal Basis:* 21 U.S.C. 351, 355, 356, 367, 360b, 360c, 360k, 371(a). F. *Chronology:* Proposed rule was published June 23, 1978 (43 FR 27474). The comment period closed August 22, 1978.	Carl Bruch, Deputy Associate Director for Device Evaluation (HFK-400), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910 (301) 427-7230.	Tentative Final Rule Date of Publication Not Yet Determined.
FDA 67—California Application for Exemption from Preemption.	A. *Description:* This regulation will set forth which provisions of California's medical device laws are exempted from preemption and which laws are not preempted (i.e., no Federal law currently exists). B. *Why Significant:* This regulation will have an impact on California's comprehensive program for the regulation of medical devices. C. *Regulatory Analysis:* Not required. D. *Need:* To respond to the petition submitted by the State of California as required by section 521(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360k. F. *Chronology:* Tentative final rule was published April 3, 1979 (44 FR 19438). The comment period closed June 4, 1979.	Joseph M. Sheehan, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Final Rule April-June 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 68—Applications for Exemption from Preemption for State and Local Hearing Aid Requirements.	A. *Description:* This regulation responds to 19 state applications for exemption from preemption for hearing aid requirements. B. *Why Significant:* This regulation will determine whether 19 states may continue their regulation of the sale of hearing aids. C. *Regulatory Analysis:* Not required. D. *Need:* To respond to the 19 state petitions as required by section 521(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360k. F. *Chronology:* Proposed rule was published July 28, 1978 (43 FR 33180). The comment period closed September 26, 1978.	Joseph M. Sheehan, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Final Rule April-June 1980.
FDA 69—Additional Applications for Exemption from Preemption for State and Local Hearing Aid Requirements.	A. *Description:* This regulation responds to two additional state applications for exemption from preemption for hearing aid requirements. B. *Why Significant:* This regulation will determine whether two states may continue their regulation of the sale of hearing aids. C. *Regulatory Analysis:* Not required. D. *Need:* To respond to two additional state petitions as required by section 521(b) of the Medical Device Amendments of 1976. E. *Legal Basis:* 21 U.S.C. 360k. F. *Chronology:* Proposed rule was published April 13, 1979 (44 FR 22119). The comment period closed June 12, 1979.	Joseph M. Sheehan, Legal Associate, Office of ADRP (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-7114.	Final Rule April-June 1980.
FDA 70—Recommendations for State and Local Agencies Concerning Accidental Radioactive Contamination of Human Food and Animal Feeds.	A. *Description:* The recommendations would consist of Protective Action Guides (PAGs), defined as the projected radiological dose equivalent or dose commitment to individuals in the general population that warrants protective action following a release of radioactive material. The Department of Health, Education, and Welfare was assigned agency responsibility for this task in the FEDERAL REGISTER of December 24, 1975 (40 FR 59494) by the Federal Preparedness Agency, General Services Administration. Within HEW, this function has been delegated to the Commissioner of Food and Drugs. B. *Why Significant:* Provides guidance following radiological incidents, including nuclear power plant accidents. C. *Regulatory Analysis:* Not required. D. *Need:* To develop necessary guidance under responsibility assigned by Federal Preparedness Agency. E. *Legal Basis:* Federal Preparedness Agency Notice in 40 FR 59494 and Public Health Service Act, 42 U.S.C. 241, 242o 243. F. *Chronology:* Proposed rule published on December 15, 1978 (43 FR 58790). Comment period closed on February 13, 1979.	Gail D. Schmidt, Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3426.	Final Rule October-December 1980.
FDA 71—Recommendations for National Standards for Medical Radiation Technologists.	A. *Description:* The Notice of Intent announced that the Bureau of Radiological Health will be establishing recommended qualifications for medical radiation technologists. The Notice solicited professional and public input about existing practices of credentialing, the need for uniform national standards, and possible approaches for ensuring that all medical radiation technologists demonstrate a certain level of competence in conducting medical radiation examinations. B. *Why Significant:* The issue concerns a matter on which there is substantial public interest as evidenced by the more than 500 comment letters received on the Notice of Intent. C. *Regulatory Analysis:* Not required. D. *Need:* Medical radiation technologists exercise considerable influence over patient exposure during radiological procedures and so criteria for their credentialing are essential. E. *Legal Basis:* Public Health Service Act, 42 U.S.C. 241, 243, 263d. F. *Chronology:* Notice of intent published on March 13, 1979 (44 FR 14637). Comment period closed on July 11, 1979.	Charles P. Froom, Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3426.	Proposed Rule January-March 1981.
FDA 72—Recommendations on Exposures from Diagnostic X-Ray Examinations.	A. *Description:* There exists a considerable range in the entrance skin exposure and the resulting organ doses for the same x-ray procedure conducted at different medical facilities and often within the same facility. Radiation exposure recommendations are being investigated that will permit radiologists, radiation protection personnel, and others to evaluate exposure values used in a given facility. Following the analysis of the comments generated by the Notice of inquiry, a program decision will be made as to the course of action the Bureau will pursue. B. *Why Significant:* The recommendations could have a great impact on reducing human exposure from medical x-ray examinations which accounts for ninety percent of public exposure to man-made ionizing radiation. C. *Regulatory Analysis:* Not required. D. *Need:* This recommendation will encourage facilities which are delivering excessive exposures compared to the usual exposures for specific examinations to reevaluate their procedures and lower their exposures. E. *Legal Basis:* Public Health Service Act, 42 U.S.C. 263d. F. *Chronology:* Notice of inquiry published on August 17, 1979 (44 FR 48354). Comment period closes on December 17, 1979.	Raymond F. Coakley, Jr., Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3426.	Proposed Rule October-December 1981.
FDA 73—Recommendations for Referral Criteria for Diagnostic Radiological Examinations.	A. *Description:* An often cited reason for the overuse of diagnostic radiological examinations is the lack of referral criteria for specific examinations. The National Conference on Referral Criteria for X-Ray Examinations addressed this problem. One of the most important recommendations resulting from the Conference, publicly ratified by the Commissioner, was that which established the Government as a facilitator in the cooperative medical professional organizations. The purpose of this announcement is: (1) To state FDA's intent to facilitate the development of referral criteria through expert panels of physicians, grants, and contracts, (2) To provide a listing of candidate radiological (including nuclear medicine) examinations; and (3) To announce means through which public participation in the process can be assured. B. *Why Significant:* These recommendations should sharply reduce the use of diagnostic x-ray procedures in those circumstances where experience has shown that such examinations do not significantly improve the patient's recovery from disease or injury. C. *Regulatory Analysis:* Not required. D. *Need:* To reduce human exposure to medical x-ray in those instances where no significant medical benefit would result. E. *Legal Basis:* Public Health Service Act, 42 U.S.C. 241, 242, 243. F. *Chronology:* The notice is currently under development.	Robert A. Phillips, Standards and Regulations Branch (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.	Notice of Intent October-December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 74—Neomycin Containing Animal Drugs	A. *Description:* To prescribe safe and effective conditions of use for neomycin containing animal drugs. B. *Why Significant:* This proposal would require the submission of new animal drug applications containing adequate date to establish the safe and effective conditions of use for new animal drugs in food producing animals. C. *Regulatory Analysis:* Not required. D. *Need:* Additional data are required for safety of residues of neomycin. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* Notice of Proposed Rulemaking in preparation.	Dr. Charles E. Haines, Division of Drugs for Swine and Minor Species (HFV-138), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.	Proposed Rule October-December 1980.
FDA 75—Sulfonamide Containing Animal Drugs.	A. *Description:* To amend 21 CFR 510.450 setting out prescribed requirements for studies to establish safe and effective conditions of use for sulfonamide containing drugs in food producing animals. B. *Why Significant:* All sponsors of sulfonamide containing drugs for use in food producing animals will be required to submit adequate information ot establish safe and effective conditions of use including tolerances for safe residues in the edible products. C. *Regulatory Analysis:* Decisions pending on completion of preliminary study. D. *Need:* Data currently available is not adequate to establish safe tolerances for residues of sulfonamide drugs in edible products of food producing animals. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* 21 CFR 510.450 was initially promulgated October 23, 1970 (35 FR 16538). It was amended to require interim studies on July 22, 1974 (39 FR 26633).	Dr. Emilio E. Viera, Division of Drugs for Swine and Minor Species (HFV-138), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.	Proposed Rule October-December 1980.
FDA 76—Medicated Feed Task Force Implementation.	A. *Description:* Amends the regulations to provide revised criteria for the need of an approved medicated feed application for the manufacture of medicated feeds. B. *Why Significant:* This proposal would materially change the current requirements for approval for the use of drugs in the manufacture of medicated feeds. C. *Regulatory Analysis:* Not required. D. *Need:* The proposal would establish sound and consistent criteria for approval of medicated feed applications. E. *Legal Basis:* Secs 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* Revised feed definitions proposed January 17, 1978 (43 FR 2526). Task Force Report made available by FR Notice December 15, 1978 (43 FR 58634). FEDERAL REGISTER of March 6, 1979 (44 FR 12208) deferred action on definitions proposal to become a part of the Medicated Feed Task Force implementation.	Dr. George Graber, Division of Animal Feeds (HFV-220), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.	Proposed Rule July-September 1980.
FDA 77—Teat Dips.....	A. *Description:* To establish a regulation prescribing data requirements to establish safe and effective use of teat dips in the dairy industry. B. *Why Significant:* The regulation will require that all articles offered for use as teat dips are new animal drugs and will require that they be the subject of an approved new animal drug application. C. *Regulatory Analysis:* Not required. D. *Need:* Such products have been shown not to be safe and effective for this use. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* A notice of proposed rulemaking issued in the FEDERAL REGISTER of August 9, 1977 (42 FR 40217). Comment period closed on March 10, 1978.	Dr. Howard Meyers, Division of Surveillance (HFV-216), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.	Final Rule July-September 1980.
FDA 78—Animal Drugs for Minor Species	A. *Description:* To modify the safety and effectiveness requirements for approval of new animal drug applications for use of a drug in a minor species or the minor use of a drug in a major species. B. *Why Significant:* To assure the availability of new animal drugs for use in minor species or for a minor use in a major species. C. *Regulatory Analysis:* Not required. D. *Need:* Because of little economic incentive to drug manufacturers. Under current criteria few drugs have been approved for use in minor species. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* A notice of proposed rulemaking issued in the FEDERAL REGISTER of July 20, 1979 (44 FR 42714). Comment period closed on October 19, 1979.	Dr. Thomas V. Raines, Division of Drugs for Avian Species (HFV-149), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.	Final Rule April-June 1980.
FDA 79—Sterility and Pyrogencity of Animal Drugs.	A. *Description:* To amend the current good manufacturing practice regulations for injectable animal drugs to require that they be sterile and free of extrinsic pyrogenic material. B. *Why Significant:* May require firms currently manufacturing such drugs to revise and update manufacturing facilities. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* Parenteral drugs that are not sterile and free of extrinsic pyrogenic material are potentially unsafe for such use. E. *Legal Basis:* Sections 501, 502, 512, 701(a) 52 Stat. 1049-1053 as amended, 1055 82 Stat. 343-351 (21 U.S.C. 351, 352, 360b, 371(a)). F. Chronology: A notice of intent was published in the FEDERAL REGISTER of December 15, 1978 (43 FR 58591). Comment period closed on June 13, 1979.	Ms. Pat Cushing, Division of Compliance (HFV-234), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3460.	Notice of Proposed Rulemaking October-December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
FDA 80—Approval of Supplemental New Animal Drug Applications.	A. *Description:* Conditions are set forth under which a supplemental new animal drug application may be approved with or without a complete reevaluation of all safety and effectiveness data in the parent application. B. *Why Significant:* The regulation constitutes a change in agency policy regarding such approvals. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation will facilitate approval of minor changes in approved applications including improving safety and effectiveness of the drug on an expeditious basis. E. *Legal Basis:* Sections 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)). F. *Chronology:* Notice of intent published November 12, 1976 (41 FR 50003) and notice of proposed rulemaking on December 23, 1977 (42 FR 64367). Comment period closed on March 23, 1978.	John R. Markus, Chief Chemist, Scientific Evaluation, (HFV-104), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.	Final Rule July-September 1980.
FDA 81—Prohibited Substances; Deodorizer Distillates.	A. *Description:* The regulation would prohibit the use of deodorizer distillate substances in animal feed. B. *Why Significant:* Such substances have been implicated in the contamination of animal feed resulting in the destruction of contaminated food producing animals. C. *Regulatory Analysis:* Not required. D. *Need:* Deodorizer distillate substances contain concentrated pesticide and other chemical residues from their application to growing crops. E. *Legal Basis:* Sections 201(g), 402, 409, 701(a), 52 Stat. 1046-1047 as amended 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371(a)). F. *Chronology:* Notice of Proposed Rulemaking published September 9, 1975 (40 FR 41797). Comment period closed on December 10, 1975. Tentative final rule was published April 29, 1980 (45 FR 28349).	John R. McDowell, Division of Animal Feeds (HFV-222), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.	Tentative Final Rule October-December 1980.
FDA 82—Descending Order of Predominance Ingrefient Statement.	A. *Description:* This is a proposal to establish a requirement that the labels of food bear a statement that ingredients are listed in descending order of predominance by weight so that consumers can better evaluate the ingredients and nutritional value of foods and select products that meet their individual needs and preferences. B. *Why Significant:* This issue concerns a matter on which there is substantial public interest. C. *Regulatory Analysis:* Not required. D. *Need:* To increase consumer awareness of the fact that ingredients are listed in their order of predominance. E. *Legal Basis:* Sections 201(n), 403(a), 701(a), 52 Stat. 1041, as amended; 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), and 371(a)) of the Federal Food, Drug and Cosmetic Act. F. *Chronology:* This proposed rule is currently under review.	Taylor M. Quinn, Associate Director of Compliance (HFF-300), Bureau of Foods, Food and Drug Administrtion, 200 C Street, S.W., Washington, D.C. 20204 (202) 245-1243.	Proposed Rule April-June 1980.
FDA 83—Restrictions on Alpha-fetoprotein Test Kits.	A. This regulation establishes restriction on the sale distribution and use of alpha-fetoprotein (AFP) test kits for neural tube defects (NTDs). B. *Why Significant:* This regulation will provide for the safe and effective use of AFT test kits in prenatal detection of NTD's. C. *Regulatory analysis:* Not required. D. *Need:* The restrictions in this regulation are necessary for the safe and effective use of AFP test kits. E. *Legal Basis:* 21 U.S.C. 360j(e). F. *Chronology:* The proposed regulation is now being prepared.	Joseph M. Sheehan, Office of the Assistant Director for Regulations Policy, (HFK-70), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8162.	Proposed Rule March-June 1980.
FDA 84—Patient Information.....	A. This notice will set forth FDA's statement of policy on the development of patient information for medical devices. This notice identifies the criteria for selecting devices for development of patient information and describes the processes that will be used to determine when patient information should be provided for medical devices and the procedures associated with their use. B. *Why significant:* This policy will help to ensure that patients have an opportunity to be well informed participants in their health care. C. *Regulatory Analysis:* Not required. D. *Need:* Publication of this notice will enable FDA to obtain comments on this policy from consumers, industry and health professionals. E. *Legal Basis:* 21 U.S.C. 352. F. *Chronology:* The notice is currently being prepared.	Carol A. Vetter, Consumer Affairs Officer (HFK-131), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, (301) 427-8120.	Notice July-September 1980.
FDA 85—Infant Foods and Formulas	A. *Description:* This is a proposal to amend the infant food regulation (21 CFR 105.65) to require a more extensive definition of appropriate nutritional composition. B. *Why Significant:* This is an issue on which there is a substantial public interest. C. *Regulatory Analysis:* Not Required. D. *Need:* To protect the public health. E. *Legal Basis:* Sections 401, 403(j), 701(e), 52 Stat. 1046 as amended, 1048, 1055 as amended, (21 U.S.C. 341, 343(j), 371(e)) of the Federal Food, Drug and Cosmetic Act. F. *Chronology:* The proposed rule is currently under review.	Allan L. Forbes, Associate Director for Nutrition and Food Sciences (HFF-200), Bureau of Foods, Food and Drug Administration, 200 C St., S.W., Washington, D.C. 20204, (202) 245-1561.	Proposed Rule July-September 1980.
FDA 86—Infant Formulas Quality Control Labeling Regulation.	A. *Description:* This is a proposal to require a warning statement on the label where specified quality control requirements are not met. B. *Why Significant:* The nutritional adequacy of infant formulas is a public health issue on which there is substantial public interest. C. *Regulatory Analysis:* Not Required. D. *Need:* To assure that the required levels of nutrients are present.	Melvin R. Johnston, Plant and Protein Technology Branch (HFF-214), Bureau of Foods, Food and Drug Administation, 200 C St., S.W., Washington, DC. 20204, (202) 245-1504.	Proposed Rule October-December 1980.

Food and Drug Administration—Significant Regulations—Continued

Title	Summary	Contact	Decision quarter
	E. Legal Basis: Sections 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343(a)), 371(a) of the Federal Food, Drug and Cosmetic Act. F. *Chronology:* The proposed rule is currently being drafted.		
FDA 87—Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants.	A. *Description:* This is a proposal to amend several of FDA regulations to prohibit or limit the amount of poly-chlorinated biphenyls (PCB's) in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging materials plants or storage facilities. B. *Why Significant:* This is a public health issue on which there is substantial public interest. C. *Regulatory Analysis:* Required. D. *Need:* To protect the public health. E. *Legal Basis:* Sections 402(a), 406, 409, 701(a), 52 Stat. 1046 as amended, 1049 as amended, 1055, 72 Stat. 1785–1788 as amended, (21 U.S.C. 342(a), 346, 348, 371(a)) of the Federal Food, Drug and Cosmetic Act and Section 361, 58 Stat. 703 (42 U.S.C. 264) of the Public Health Service Act. F. *Chronology:* The proposed rule published on May 9, 1980 (45 FR 30964). Comment period ends July 7, 1980.	F. Leo Kauffman, Plant and Protein Technology Branch (HFF–214), Bureau of Foods, Food and Drug Administration, 200 C Street, SW., Washington, D.C. 20204, (202) 245–1164.	Final Rule October–December 1980.

Office of Human Development Services

Title	Summary	Contact	Decision quarter
HDS–2—Grants to Indian Tribal Organizations for Social and Nutrition Services: General Rules.	A. *Description:* This regulation would establish procedures for eligible Indian tribal organizations to apply for grants to provide social and nutrition services to Indians age 60 and older. B. *Why Significant:* This is a new program which would result in increased social and nutrition services for older Indians. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the provisions of Title VI of the Older Americans Act, as amended. E. *Legal Authority:* 42 U.S.C. 3057. F. *Chronology:* Notice of Decision to Regulate was published on January 31, 1979 (44 FR 6155).	Fran Holland, Aging Program Specialist, Administration on Aging, Room 4748 HEW North Bldg., 330 Independence Ave., S.W., Washington, D.C. 20201, (202) 472–3058.	Final Rule, July, 1980
HDS–4—Developmental Disabilities Program: General Rules.	A. *Description:* This regulation would revise existing regulations to clarify current policies and implement changes in the following areas: Definition of developmental disability; rights of the developmentally disabled; protection and advocacy systems; state planning councils; the state plan; allotments; and special project grants. B. *Why Significant:* This regulation would change the state plan requirements and concentrate funds on a limited number of priority service areas for the developmentally disabled. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the 1978 Amendments to the Developmental Disabilities Assistance and Bill of Rights Act. E. *Legal Basis:* 42 U.S.C. 6008. F. *Chronology:* None.	Ms. Marjorie H. Kirkland, Bureau of Developmental Disabilities, Rehabilitation Services Administration, Room 3070 M.E. Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201, (202) 245–0335.	Final Rule—November 1980.
HDS–5—Social Service Programs: Consolidated Grants to Insular Areas.	A. *Description:* This regulation would specify the procedures for application and use of a single grant award consolidating the formula grant funds available for social services to the Insular Areas under Titles I, IV–A, IV–B, X, XIV, XVI and XX of the Social Security Act. B. *Why Significant:* This regulation will allow the Insular Areas greater flexibility for setting social services priorities and in responding to the needs of their populations. C. *Regulatory Analysis:* Not required. D. *Need:* To implement a 1977 Amendment to the Omnibus Territories Act. E. *Legal Basis:* 48 U.S.C. 1469(a). F. *Chronology:* None.	Warren Master, 334F.4, H.H. Humphrey Bldg., Washington, D.C. 20201, (202) 245–2874.	Final Rule—August 1980.
HDS–6—Native American Program: General Rules.	A. *Description:* This regulation would simplify and clarify existing regulations and implement significant changes in policies and operation to reflect experience in operating the program. B. *Why Significant:* The Native American Grants provide valuable resources to Native Americans in their efforts to achieve economic and social self-sufficiency. C. *Regulatory Analysis:* Not required. D. *Need:* Regulations are needed to provide detailed requirements for the receipt and use of grants under the Native Americans Program Act of 1974. E. *Legal Basis:* 42 U.S.C. 2991. F. *Chronology:* None.	Casimer Wichlacz, Director, Policy Planning & Budget Division, Administration for Native American, Room 357G, H.H. Humphrey Bldg., 200 Independence Ave., S.W., 20201, (202) 426–3940.	Proposed Rule—December 1980.
HDS–7—Child Abuse and Neglect Prevention and Treatment Program: General Rules.	A. *Description:* This regulation will implement statutory amendments to the Child Abuse Prevention and Treatment Act, which provides discretionary grants for demonstration and service projects and research projects to private, nonprofit organizations. In addition, it provides special grants to States who meet the eligibility criteria for child abuse prevention and treatment projects. B. *Why Significant:* This regulation will revise the definition of child abuse and neglect to include sexual abuse and sexual exploitation as required by the statute. This will broaden the scope of services provided by the Act. C. *Regulatory Analysis:* Not required. D. *Need:* To implement the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.	Frank Ferro, Associate Chief, Children's Bureau, Administration for Children, Youth, and Families, Donohoe Bldg., Room 2030, 400 6th St., S.W., Washington, D.C. 20013, (202) 755–7418.	Final Rule—November 1980.

Office of Human Development Services—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Basis:* 42 U.S.C. 5101 et seq. F. *Chronology:* Notice of Decision to Regulate was published on September 6, 1978 (43 FR 39593).		
HDS-9—Work Incentive Programs: relocation to Chapter XIII of 45 CFR.	A. *Description:* This regulation would relocate Part 224 (Work Incentive Programs for AFDC Recipients) from Chapter II of Title 45 of the Code of Federal Regulations (CFR) to Chapter XIII of 45 CFR. The regulation would delete references to the Social and Rehabilitation Service (an obsolete agency) and make other technical changes. B. *Why Significant:* This regulation would not cause any changes in the way in which this program is operated. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is needed to consolidate in Chapter XIII of 45 CFR all regulations administered by the Office of Human Development Services. E. *Legal Basis:* 42 U.S.C. 630 et seq. F. *Chronology:* None.	Merwin S. Hans, Executive Director, National Coordination Committee Work Incentive Program, Room 5102, Patrick Henry Bldg., 601 D Street, N.W., Washington, D.C. 20201, (202) 376-6694.	Final Rule—January-August 1980.
HDS-10—Social Service Programs Under Titles I, IV, X, XIV, XVI (AABD) and XX of the Social Security Act: Relocation to Chapter XIII of 45 CFR.	A. *Description:* This regulation would relocate Part 220 (Service Programs for Families and Children), Part 222 (Service Programs for Aged, Blind and Disabled), and Part 228 (Social Services Programs for Individuals and Families), from Chapter II of Title 45 of the Code of Federal Regulations (CFR) to Chapter XIII of 45 CFR. The regulation would delete references to the Social and Rehabilitation Service (an obsolete agency) and make other technical changes, but no policy changes would be made. B. *Why Significant:* This regulation would not cause any changes in the way in which these programs are operated. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is needed to consolidate in Chapter XIII of 45 CFR all regulations administered by the Office of Human Development Services. E. *Legal Basis:* 42 U.S.C. 1302, 302-303, 1202, 1203, 1352-1353, 1382-1383. F. *Chronology:* None.	Johnnie U. Brooks, Director, Office of Policy Control Administration for Public Services, Room 2225, Mary E. Switzer Bldg., 330 C Street, S.W. Washington, D.C. 20201 (202) 245-9415.	Final Rule—January-June 1980.
HDS-11—Technical Amendments to 45 CFR Parts 220, 222 and 228 to insure that social service programs comply with the requirements in 45 CFR Part 74.	A. *Description:* This regulation amends Part 220 (Service Programs for Families and Children), Part 222 (Service Programs for Aged, Blind, and Disabled), and Part 228 (Social Services Programs for Individuals and Families of 45 CFR Chapter II to make them consistent with the Department's grant administration provisions in 45 CFR Part 74. Since part 74 is applicable to all HHS grants, these revisions neither establish new policy nor change current policy. They clarify current policy, delete unnecessary duplications, modify text to make it comport with Part 74, and correct certain citations. B. *Why Significant:* The regulations clarify two major policy areas. First, they clarify that adherence to Part 74 under titles IV-B and XX is an FFP issue. Under titles I, IV-A, X, XIV and XVI (AABD), adherence to Part 74 is both a state plan (compliance) issue and an FFP issue. Second, they clarify the concept of "third-party public agency" for purposes of procurements and valuing in-kind contributions. C. *Regulatory Analysis:* Not required. D. *Need:* This regulation is necessary to make the social services regulations consistent with 45 CFR Part 74, as required by the Department. E. *Legal Basis:* 42 U.S.C. 1302. F. *Chronology:* None.	Warren Master, Acting Director, Office of Policy Development, Offc. of Human Development Services, Room 302E, H. H. Humphrey Bldg., 200 Independence Ave., S.W., Washington, D.C. 20201, (202) 472-2458.	Final Rule—June 1980.
HDS-12—Disclosure by Providers of Certain Ownership Interests and Other Information under the title XX social service program.	A. *Description:* These regulations amend the final regulation published July 17, 1979 (implementing P.L. 95-142) by making changes in the effective date statement, and by making two technical changes and two editorial corrections. B. *Why Significant:* These regulations provide clarification that irrespective of a State's title XX program year, the State has until December 31, 1979 to obtain the required information from providers with whom they enter a contract after July 17, 1979 and prior to December 31, 1979. The technical amendments: (1) clarify that a provider must comply with § 228.72 in its entirety and (2) corrects the definition of "providers" in § 228.72. Although this is a final rule, comments will be accepted and any changes found necessary will be made. C. *Regulatory Analysis:* Not required. D. *Need:* To assist states in implementing the provisions of P.L. 95-142 with respect to title XX. E. *Legal Basis:* 42 U.S.C. 1302, 1320a and 1320a(5). F. *Chronology:* Final regulation FR 7/17/79.	Warren Master, Acting Director, Office of Policy Development, Offc. of Human Development Services, Room 302E, H. H. Humphrey Bldg., 200 Independence Ave., S.W., Washington, D.C. 20201, (202) 472-2458.	Final Rule—June 1980.
HDS-13—Social Service Programs for Individuals and Families:Ttitle XX of the Social Security Act.	A. *Description:* This regulation would reorganize, revise and clarify the rules governing the title XX Social Services program. It would include proposed policy changes designed to remove barriers to effective State operation of programs. B. *Why Significant:* The revised regulation would address Federal/State issues and problems that have arisen in the title XX program, and provide greater clarity in the Federal rules. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are in response to the Department's common sense initiative, and to HDS' commitment to the States to improve the regulations. E. *Legal Basis:* 42 U.S.C. 1302. F. *Chronology:* None.	Warren Master, Acting Director, Office of Policy Development, Offc. of Human Development Services, Room 302E, H. H. Humphrey Bldg., 200 Independence Ave., S.W., Washington, D.C. 20201, (202) 472-2458.	Proposed Rule—October-December 1980.
HDS-15—Eligibility Requirements and Limitations for Enrollment in Head Start.	A. *Description:* Will implement a new legislative requirement of P.L. 95-568 which allows a Head Start program to establish more liberal eligibility criteria if the community in which it is operating meets certain statutory requirements. B. *Why Significant:* This amendment will allow more than 15% over income children to enroll in Head Start programs located in communities which meet criteria established in the statute. C. *Regulatory Analysis:* Not required. D. *Need:* To implement a 1978 amendment to the Headstart—Follow Through Act. E. *Legal Basis:* 42 U.S.C. § 2928g(a)(2). F. *Chronology:* None.	Henlay Foster, Associate Director, Head Start Bureau, Administration for Children, Youth and Families, Room 5163 Donohoe Bldg., 400 6th St., S.W., Washington, D.C. 20013, (202) 755-7782.	Proposed Rule—September 1980.

Social Security Administration

Title	Summary	Contact	Decision quarter
SSA-4—Aid to Families With Dependent Children Program—Quality Control Reviews—General Administration, 45 CFR Part 205.	A. *Description:* The proposed regulations will require States to submit findings from their monthly AFDC review sample to SSA within 75 days after the sample month. Also, States will be required to submit findings on not less than 98 percent of the cases selected for the monthly review sample unless an alternative completion plan for that State is approved by the Secretary. The anticipated result is that the monthly review findings will be promptly submitted and not delayed until the end of the 6-month sample period. B. *Why Significant:* This change would assure more rapid availability of quality control data. This would enable SSA to complete our reports on a more timely and updated basis. Timely data on payment error rates will assist administrators in determining where funds are being lost and in taking action to correct problems. C. *Regulatory Analysis:* Not required. D. *Need:* These proposed regulations implement an administrative decision that was made. E. *Legal Basis:* 42 U.S.C. 302, 602, 1202, 1352 and 1382. F. *Chronology:* A Notice of Decision to Regulate was published on June 15, 1979 (44 FR 34606).	Sean Hurley, (202) 245-8999, Program Specialist, Office of Family Assistance, Room 1416 Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201.	Proposed Rule April-June 1980.
SS-7—Aid to Families With Dependent Children Program—Redetermining Eligibility and Computing Supplementary Payment, 45 CFR Parts 232, 233, and 302.	A. *Description:* These regulations will require that eligibility be based on the current month's reported support payments, and each month's supplemental payment be based on the largest part of the amount collected in the current month that would not cause ineligibility. They will provide uniform and equitable redeterminations of eligibility and payment amounts. B. *Why Significant:* These regulations would affect AFDC and Child Support Enforcement programs in 14 States and in Puerto Rico, Guam, Virgin Islands, and the District of Columbia. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations will assure that no family receiving child support payments will suffer a loss in disposable income as a result of the initiation of the Child Support Enforcement Program. E. *Legal Basis:* 402(a)(7), (8), (10), and (28) and 1102 of the Social Security Act as amended; 42 U.S.C. 607(a)(7), (8), (10) and (28) and 1302 as amended, Section 202 of Pub. L. 94-88. F. *Chronology:* A Notice of Decision to Regulate was published on May 18, 1979 (44 FR 29122). Notice of proposed rulemaking was published on February 15, 1980 (45 FR 8322)	Alice Stewart, (202) 245-2010, Program Specialist, Office of Family Assistance, Room B411 Trans Point Bldg., 2100 Second St., S.W., Washington, D.C. 20024.	Final Rule July-September 1980.
SSA-8—Aid to Families With Dependent Children Program—Equity Methods for Evaluating Resources, 45 CFR Part 233.	A. *Description:* These regulations provide that equity value be used instead of current market value when determining resources. B. *Why Significant:* These regulations will affect AFDC for all jurisdictions and adult assistance administered in Guam, Puerto Rico, and the Virgin Islands. C. *Regulatory Analysis:* Not Required. D. *Need:* These regulations are prompted by and reflect the U.S. Court of Appeals decision in *NWRO* v. *Matthews* (553 F. 2d 637). E. *Legal Basis:* 42 U.S.C. 602 and 1302. F. *Chronology:* The Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241). A decision was later made to publish final rather than proposed regulations.	Juanita Henderson, (202) 245-0203, Program Specialist, Office of Family Assistance, Washington, D.C. 20201.	Final Rule April-June 1980.
SSA-9—Aid to Familes With Dependent Children Program—Inclusion of Child Receiving Old-Age, Survivors' and Disability Insurance Benefits into an AFDC Assistance Unit, 45 CFR Part 233.	A. *Description:* The proposed regulations will reaffirm an AFDC caretaker's option to include in the AFDC assistance unit a child who receives OASDI benefits under Title II of the Social Security Act, even when such benefits are sufficient to meet the child's needs under the State's AFDC payment standard. B. *Why Significant:* The proposed regulations will codigy internal policy memoranda in effect between the Federal Government and the States. C. *Regulatory Analysis:* Not required. D. *Need:* Policy clarification is required between State Letter 1088 and subsequent policy issuance in order to resolve two conflicting interpretations. E. *Legal Basis:* 42 U.S.C. 602 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on March 6, 1979 (44 FR 12214).	Connie Katz, (202) 245-2015, Program Specialist, Office of Family Assistance, Room B416 Trans Point Bldg., 2100 Second Street, S.W., Washington, D.C. 20024.	Proposed Rule April-June 1980.
SSA-11—Aid to Families With Dependent Children Program—Continued Absence of the Parent from the Home, 45 CFR Part 233.	A. *Description:* A child will be considered deprived of parental support or care by reason of continued absence of a parent from the home when: (1) A parent has been convicted of an offense and is under sentence of a court; (2) the sentence requires the parent to perform unpaid public work or community service during working hours; and (3) the parent is permitted to live at home while serving the sentence for reasons in the public interest. B. *Why Significant:* The final regulations will broaden the interpretation of the statutory provision, "continued absence from the home." It is inequitable to grant AFDC to families with a parent in prison, but to deny AFDC to families with a parent who, although permitted to live at home, must serve a court-imposed sentence at unpaid work which deprives the children of economic support. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to grant AFDC to families of children deprived of parental support or care because a parent cannot seek or accept a job while serving a sentence at unpaid work. E. *Legal Basis:* Secs. 406 and 1102 of the Social Security Act, as amended, 49 Stat. 629 as amended, 49 Stat. 647 as amended, 42 U.S.C. 606 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on August 10, 1978 (43 FR 35511). Notice of Proposed Rulemaking was published on July 2, 1979 (44 FR 38606). Comment period ended August 31, 1979.	Ms. Joyce Fernandez, (202) 245-2025, Program Specialist, Office of Family Assistance, Room 424 Trans Point Bldg., 2100 Second Street, S.W., Washington, D.C. 20024.	Final Rule July-September 1980.
SSA-13—Aid to Families with Dependent Children Program—Administrative and Fiscal Requirements for Federal Financial Participation in Financial Assistance to Individual, 45 CFR Part 236.	A. *Description:* The proposed regulations will define "financial assistance payments" and list the types of assistance payments for which Federal matching funds are available. They will also provide requirements that States must meet in the payment process, and provide requirements having to do with making payments.	John Seneta, (202) 245-2027, Program Specialist, Office of Family Assistance, Room B419 Trans Point Bldg., 2100 Second Street, S.W., Washington, D.C. 20024.	Proposed Rule October-December 1980.

Social Security Administration—Continued

Title	Summary	Contact	Decision quarter
	B. *Why Significant:* These proposed regulations are important because they will explain how to handle incorrect payments that are excluded from the AFDC quality control system, how to select the proper payee, how to determine the correct payment and how to determine the method of payment. C. *Regulatory Analysis:* Not required. D. *Need:* Although these rules are in Part IV-500 of the Handbook of Public Assistance, they should be updated and transferred to the regulations. E. Legal Basis: Sections 402(a)(5) and 1102 of the Social Security Act. F. *Chronology:* A Notice of Decision to Regulate was published on October 1, 1979 (44 FR 56389).		
SSA-14—Social Security Administration—Reorganization and Updating of Disclosure Regulations, 20 CFR Part 401.	A. *Description:* These final regulations provide for disclosure of information from social security records under the Social Security Act, the Freedom of Information Act, the Privacy Act, and other related statutes. B. *Why Significant:* These final regulations will reflect the policies SSA will follow in deciding whether to disclose information from its records. C. *Regulatory Analysis:* Not required. D. *Need:* Strong public interest in SSA's rules on disclosing information from its records indicates a need to publish these regulations. E. *Legal Basis:* Privacy Act of 1974 (Pub. L. 93-579); 5 U.S.C. 552 Freedom of Information Act (Pub. L. 94-409). F. *Chronology:* A Notice of Proposed Rulemaking was published on April 10, 1979, with a comment period ending June 19, 1978 (44 FR 21495). A notice was published on June 1, 1979, which extended the comment period to August 31, 1979 (44 FR 31667).	Armand Esposito, (301) 594-7455, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule July-September 1980.
SSA-15—Social Security Administration—Availability of Information and Records to the Public, 20 CFR Parts 401 and 422.	A. *Description:* These proposed regulations will revise SSA's rules on the Freedom of Information Act to make them consistent with HEW's regulations in 45 CFR part 5, transfer material concerning HCFA's Medicare program and relocate certain rules to bring SSA's rules on disclosure and the availability of information together in one part. B. *Why Significant:* These are basically technical revisions to make SSA's rules consistent with those in 45 CFR Part 5. C. *Regulatory Analysis:* Not required. D. *Need:* There is a need to review SSA's rules on the availability of information for consistency with HEW's, revise our rules to reflect creation of Health Care Financing Administration, and to transfer certain Medicare information which no longer applies to SSA activities to 42 CFR part 405. E. *Legal Basis:* 42 U.S.C. 405 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on May 18, 1979 (44 FR 29102).	Armand Esposito, (301) 594-7455, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md 21235.	Proposed Rule July-September 1980.
SSA-18—Old-Age, Survivors, Disability Insurance Program—Basic Computation of Benefits and Lump Sums, 20 CFR Part 404, Subpart C.	A. *Description:* These proposed regulations will contain the rules on computations of primary insurance amounts (PIA) under the old-age, survivors, and disability insurance programs. (An individual's PIA is the basic tool we use to find the amount of the individual's monthly benefit as well as the monthly benefits of his or her family.) B. *Why Significant:* These proposed regulations will simplify the complex provisions for computing benefits. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis* Sec. 215 of the Social Security Act; 42 U.S.C. 415. F. *Chronology:* A Notice of Decision to Regulate was published on March 6, 1979 (44 FR 12205).	Jack Schanberger, (301) 594-6785, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule April-June 1980.
SSA-20—Old-Age, Survivors, Disability Insurance Program—The Retirement Test, 20 CFR Part 404, Subpart E.	A. *Description:* These final regulations implement a statutory provision which permits payment of monthly benefits because of low earnings in a month only at the time of initial retirement. Thereafter, the right to payments depends on earnings in a year. B. *Why Significant:* The statutory provision represents a radical change in the retirement test and the law lacks the specificity for implementation. C. Regulatory Analysis: Not required. D. *Need:* The law does not provide specificity for implementation of this provision. E. *Legal Basis:* Sections 203 and 1102 of the Social Security Act as amended; 42 U.S.C. 403 and 1302; Pub. L. 95-216. F. *Chronology:* A Notice of Decision to Regulate was published on August 15, 1978 (43 FR 36110). Interim regulations were published on November 17, 1978 (43 FR 53713). The comment period ended on January 16, 1979.	Clara Powell, (301) 594-7459, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule.
SSA-21—Old-Age, Survivors, Disability Insurance Program—Deductions, Reduction; and Nonpayment of Benefits, 20 CFR Part 404, Subpart E.	A. *Description:* This proposal is a recodification of the rules for making deductions from benefits, reducing benefits, and for nonpayment of benefits in the old-age, survivors, and disability insurance programs. B. *Why Significant:* The recodified regulations will be easier for the public to use and will update amendment material not contained in current regulations. C. *Regulatory Analysis:* Not required. D. *Need:* We propose to remove seldom used provisions, obsolete examples, and long, rambling paragraphs. The rules are rewritten in simpler terms under HEW's "Operation Common Sense." E. *Legal Basis:* 42 U.S.C. 405 and 1302; Sections 203, 205, and 224 of the Social Security Act. F. *Chronology:* A Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).	Marval Cazer, (301) 594-7453, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule October-December 1980.
SSA-22—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Limitation for Holding Hearings, Issuing Hearing Decisions and Issuing Appeals Decisions, 20 CFR Part 404 Subpart J and Part 416 Subpart N.	A. *Description:* These regulations will provide time frames for the holding of hearings, issuance of hearing decisions and Appeals Council reviews for all Title II and Title XVI disability cases. Good cause exceptions which generally benefit claimants are also described. B. *Why Significant:* This regulation provides regulatory assurance to claimants that appeals will be heard promptly and decisions issued promptly. C. *Regulatory Analysis:* Not required.	Phil Berge, (301) 594-7452, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule July-September 1980.

Social Security Administration—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* These regulations are needed because, over the last several years, Congress, the Courts, representatives of individuals in social security matters, and the general public have expressed concern over delays in holding hearings, issuing hearing decisions and the reviews of these decisions. In addition, the Court of Appeals in *Blankenship v. Califano* ordered the Secretary to prepare and submit regulations for the Court's approval to remedy the problem of unreasonable delays in conducting hearings for the OASDI and SSI programs. E. *Legal Basis:* 42 U.S.C. 405, 1302, 1320(c)(8), 1383, 1395ff, and 1395(ii). F. *Chronology:* None. A notice of proposed rulemaking was published on March 12, 1980 (45 FR 12837).		
SSA-23—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Procedures, Payment of Benefits: Determinations, Reconsiderations, Hearings and Appeals, 20 CFR Part 404, Subparts J, R, and S, and Part 416, Subparts N and O.	A. *Description:* These final regulations will explain the administrative review process and procedures relating to claimant representation. B. *Why Significant:* These regulations explain people's procedural rights in dealings with the Social Security Administration. This revision makes the rules clearer and easier to understand. C. *Regulatory Analysis:* Not required. D. Need: These regulations are being rewritten under "Operation Common Sense." E. *Legal Basis:* 42 U.S.C. 405, 406, 1302, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545). A Notice of Proposed Rule Making was published on April 4, 1979 (44 FR 20176). The comment period ended June 4, 1979.	Cliff Terry, (301) 594-7519, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule July-September 1980.
SSA-25—Old-Age, Survivors, Disability Insurance Program—Coverage of Employees of State and Local Governments, 20 CFR Part 404, Subpart M.	A. *Description:* These proposed regulations will expand the current rules on including employees of State and local governments and interstate instrumentalities in the social security program. B. *Why Significant:* These proposed regulations will reflect the policies States must follow in applying for coverage of its employees and those of its local subdivisions, how to terminate its agreements, when it must pay its social security contributions, file wage reports, etc. C. *Regulatory Analysis:* Not required. D. *Need:* The current regulations need to be organized into a logical sequence and to be updated to reflect many policies which all parties have been following for many years. We will be reviewing all policies in this area to reduce recordkeeping burdens and to assess their import in the trust funds. E. *Legal Basis:* 42 U.S.C. 418. F. *Chronology:* A Notice of Decision to Regulate was published on September 28, 1979 (44 FR 55899).	Armand Esposito, (301) 594-7455, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Proposed Rule October-December 1980.
SSA-27—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Disability, 20 CFR Part 404, Subpart P and Part 416, Subpart I.	A. *Description:* These final regulations will include the rules for determining disability under Title II and determining disability and blindness under Title XVI of the Social Security Act. B. *Why Significant:* The final regulations are significant because they state the disability rules in a clear and useful manner, C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" Standards. E. *Legal Basis:* 42 U.S.C. 405, 433, 1302, 1382c and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545) and a Notice of Proposed Rule Making was published on July 3, 1979 (44 FR 38879). The comment period ended on September 4, 1979.	William Ziegler, (301) 549-7415, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Md. 21235.	Final Rule July-September 1980.
SSA-28—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Determining SGA: Earnings Guidelines for Years Beginning 1980, 20 CFR Part 404 Subpart P and Part 416 Subpart I.	A. *Description:* Under the law, a person who is able to do substantial gainful activity is not disabled for payment purposes. These interim regulations will specify the monthly earnings amounts that are used as guidelines to determine whether a person has done Substantial Gainful Activity. B. *Why Significant:* The increased guideline amounts reflect the general rise in earnings level of workers in the national economy. C. *Regulatory Analysis:* Not required. D. *Need:* Revised guidelines are needed for 1980 and the regulations should be in place by calendar year 1980. E. *Legal Basis:* 42 U.S.C. 405, 423, 1302, 1382c and 1383. F. *Chronology:* None. An interim regulation was published on March 18, 1980 (45 FR 17131).	David Smith, (301) 594-7336, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule July-September 1980.
SSA-29—Old-Age, Survivors, Disability Insurance and Supplemental Security Income Programs—Representative Payee, 20 CFR Part 404 Subpart Q and Part 416 Subpart F.	A. *Description:* The proposed regulations will state the rules used in determining when a beneficiary needs a representative payee, how a representative payee is selected, and how we assure that the representative payee uses payments in the best interest of the beneficiary. B. *Why Significant:* The proposed regulations will be simpler and easier for the public to understand. The guidelines for the use of representative payees are important for members of the public to know. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 405, 1302, 1383. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Ken Dyer, (301) 594-7454, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule October-December 1980.

Social Security Administration—Continued

Title	Summary	Contact	Decision quarter
SSA-30—Supplemental Security Income Program—Eligibility, 20 CFR Part 416, Subpart B.	A. *Description:* These proposed regulations will state requirements for individuals to be eligible for SSI benefits. B. *Why Significant:* The proposed regulations simplify the language of existing regulations. Also, they expand the definition of a resident of an institution to agree with that in operating procedures. C. *Regulatory Analysis:* None. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 USC 1302, 1381a, 1382, 1382c, 1383 and 1383b. F. *Chronology:* A Notice of Decision to Regulate was published March 27, 1979 (44 FR 18237).	Rita Hauth, (301) 594-7112, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-31—Supplemental Security Income Program—Eligibility Redeterminations, 20 CFR Part 416, Subpart B.	A. *Description:* These regulations will provide that eligibility redeterminations will be scheduled at various intervals depending on the individual situations; i.e., the likelihood of change in circumstances. B. *Why Significant:* The regulations will reduce costs by cutting down on frequency of redeterminations of individuals who are in situations that rarely change. C. *Regulatory Analysis:* An interim regulation was published on November 7, 1979 (44 FR 64402). D. *Need:* Rules are needed to conduct redeterminations less frequently than at 12 month intervals. E. *Legal Basis:* 42 U.S.C. 1302, 1381a, 1382 and 1383. F. *Chronology:* An interim regulation was published on November 7, 1979 (44 FR 64402)..	Rita Hauth, (301) 594-7112, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule October-December 1979.
SSA-32—Supplemental Security Income Program—Filing of Applications, 20 CFR Part 416, Subpart C.	A. *Description:* These regulations will include rules on filing applications for supplemental security income. They will describe the requirements for filing, who may file, how to file, and when. B. *Why Significant:* The regulations will be simplier and easier for members of the public to understand. Information as to what and how to file an application and its effects is important for SSI claimants to have. C. *Regulatory Analysis: Not required.* D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1382(c) and 1383(e). F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18237). A notice of proposed rulemaking was published November 21, 1979 (44 FR 66836).	Ken Dyer, (301) 594-7454, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule July-September 1980.
SSA-33—Supplemental Security Income Program—Amount of Benefits, 20 CFR Part 416, Subpart D.	A. *Description:* This proposed recodification under Operation Common Sense revises and reorganizes rules on how the Social Security Administration figures amounts of monthly benefits payable to eligible individuals and eligible couples under the Supplemental Security Income (SSI) program. B. *Why Significant:* This recodification will clarify the rules and make them easier to understand. No policy change is involved. C. *Regulatory Analysis:* Not required. D. *Need:* Social Security Administration wants to provide the public with clearer regulations. E. *Legal Basis:* Secs. 1611 and 1612, secs. 210 and 211, Pub. L. 93-66, as amended, 88 Stat. 1466-1469, 87 Stat. 154, 42 U.S.C. 1382 and 1382a. F. *Chronology:* A Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).	Jack Schanberger, (301) 594-6785, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule October-December 1980.
SSA-34—Supplemental Security Income Program—Payment of Benefits, Overpayment, Underpayment, Recovery of Overpayment, 20 CFR Part 416, Subpart E.	A. *Description:* These proposed regulations will make clear that current tests are alternative tests for eligible individuals, but they are not alternative tests for ineligible individuals. B. *Why Significant:* The proposed regulations clarify how we decide whether adjustment or recovery of an overpayment would defeat the purpose of the Supplemental Security Income program. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to clarify the current tests for recovery of overpayment. E. *Legal Basis:* Sec. 1102 and 1631(b) of the Social Security Act as amended; 42 U.S.C. 1302 and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18238). A notice of proposed rulemaking was published on May 28, 1980.	Marval Cazer, (301) 594-7463, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule October-December 1979.
SSA-35—Supplemental Security Income Program—Reports Required 20 CFR Part 416, Subpart G.	A. *Description:* This proposed recodification under Operation Common Sense revises and reorganizes rules on reports required from each applicant, eligible individual, eligible spouse, and eligible child under the Supplemental Security Income program. The rules cover provisions regarding reports required and explain the penalties for failures to report on time. B. *Why Significant:* This recodification will clarify the rules and make them easier to understand. No policy change is involved. C. *Regulatory Analysis:* Not required. D. *Need:* Social Security Administration wants to provide the public with clearer regulations. E. *Legal Basis:* Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act, as amended; Sec. 211 of Pub. L. 93-66; 49 Stat. 647, as amended; 86 Stat. 1466, 1468, 1470, 1471, and 1475; 87 Stat. 154; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383. F. *Chronology:* Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531).	Marval Cazer (301) 594-7463, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-36—Supplemental Security Income Program—Family Relationships 20 CFR Part 416, Subpart J.	A. *Description:* These regulations define spouse, child, and parents for SSI purposes. B. *Why Significant:* The regulations are significant because determinations on family relationship questions must be made in order to know; (1) what limits on income and resources to use in order to determine eligibility; (2) what income to count in order to determine the benefit amount; and (3) what benefit amount applies. This revision makes the rules clearer and easier to read. C. *Regulatory Analysis:* Not required.	Cliff Terry, (301) 594-7519, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule July-September 1980.

Social Security Administration—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382c, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 18237). A notice of proposed rulemaking was published on March 11, 1980 (45 FR 15566).		
SSA-37—Supplemental Security Income Program—Program Income 20 CFR Part 416, Subpart K.	A. *Description:* These final regulations will explain how we consider income under the supplemental security income program how we define it and how we count the amount of individual benefits. B. *Why Significant:* The regulations will simplify and reorganize the rules for clarity and more logical sequence. Existing regulations have been amended to the extent that they are difficult to understand. C. *Regulatory Analysis:* None. D. *Need:* We need to provide the public with clearer regulations and meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on October 24, 1978 (43 FR 49545). A Notice of Proposed Rule Making was published on February 1, 1979 (44 FR 41054). The comment period ended April 2, 1979.	Rita Hauth, (301) 594-7112, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule July-September 1980.
SSA-38—Supplemental Security Income Program—Resources, 20 CFR Part 416, Subpart L.	A. *Description:* These proposed regulations will describe what we count as resources in determining eligibility for supplemental security income. B. *Why Significant:* The purpose of these recodified regulations is to make the rules clearer and easier for the public to understand. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382, 1382b, 1382c, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1979 (44 FR 12837).	Henry Lerner, (301) 594-7414, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule October-December 1980.
SSA-39—Supplemental Security Income Program—Reductions, Suspensions, and Terminations, 20 CFR Part 416, Subpart M.	A. *Description:* These proposed regultions will contain the rules for reducing, suspending and terminating an SSI recipient's benefits. They are being rewritten to provide greater clarity to the reader and to consider policy additions, revisions, and clarification. B. *Why Significant:* The rules will be clearer and easier for the public to read. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1302, 1382, 1382c, 1382d, and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Charles Campbell, (301) 594-7453, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule July-September 1980.
SSA-40—Supplemental Security Income Program—Referrals of Persons Eligible for Supplemental Security Income to Other Agencies, 20 CFR Part 416, Subpart Q.	A. *Description:* The proposed regulations deal with the referral of persons eligible for supplemental security income to other agencies for treatment as services. B. *Why Significant:* The recodification of the regulations will make them simpler and easier to use. Referrals for treatment or services are important for disability claimants under the Supplemental Security Income program to know about. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 1382(e)(3)(A) and 1382d. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241). A notice of proposed rulemaking was published on April 24, 1980 (45 FR 27782).	Ken Dyer, (301) 594-7454, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule October-December 1980.
SSA-41—Supplemental Security Income Program—Interim Assistance Provisions, 20 CFR Part 4316, Subpart S.	A. *Description:* This recodification under Operation Common Sense revises and reorganizes rules on interim assistance provisions under the Supplemental Security Income program. The rules permit the Social Security Administration to enter into an agreement with a State to repay the State for interim assistance it gives an individual while an application for SSI is pending. B. *Why Significant:* This recodification will clarify the rules and make them easier to understand. The rules permit SSA to withhold an individual's SSI benefit payment and send it to the State as repayment for interim assistance, upon the individual's written authorization. A policy change will allow the authorization to go into effect upon notice to SSA of receipt by the State. C. *Regulatory Analysis:* Not required. D. *Need:* Social Security Administration wants to provide the public with clearer regulations and to update policy to take advantage of modern electronic communications facilities. E. *Legal Basis:* Secs. 1102 and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended; 86 Stat. 1475 as amended; 42 U.S.C. 1302 and 1383. F. *Chronology:* A Notice of Decision to Regulate was published on July 11, 1979 (44 FR 40531). A notice of proposed rulemaking was published on April 21, 1980 (45 FR 26719).	Vera Schlosser (301) 594-7332, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule October-December 1980.
SSA-42—Supplemental Security Income Program—Pass Along Benefit Increase With Limitation for Hold-Harmless States, 20 CFR Part 416, Subpart T.	A. *Description:* These final regulations will implement provisions of section 1618 of the Social Security Act by interpreting the statute to include those beneficiaries who receive only State supplementation and to provide guidelines for related State agreements. B. *Why Significant:* The regulations will interpret the law and provide a basis for implementation. They will define State supplementary payments and make it clear that State Supplementary only cases are included in the pass-along requirement. C. *Regulatory Analysis:* Not required. D. *Need:* The law is not specific enough to be entirely self-effectuating.	Clara Powell, (301) 594-6629, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Final Rule July-September 1980.

Social Security Administration—Continued

Title	Summary	Contact	Decision quarter
	E. *Legal Basis:* Secs. 1102, 1601, 1618, and 1631(d) of the Social Security Act as amended; 42 U.S.C. 1302, 1381, 1382e, 1382g, 1383(d)(1); sec. 401 of Pub. L. 92-603 as amended by sec. 504 of Pub. L. 94-566; and sec. 2 of Pub. L. 94-585. F. *Chronology:* A notice of Proposed Rule Making was published on March 27, 1979 (44 FR 18238). The comment period ended May 29, 1979.		
SSA-43—Supplemental Security Income Program—Medicaid Eligibility Determinations, 20 CFR Part 416, Subpart U.	A. *Description:* The proposed regulations will give the rules under which Social Security Administration agrees to make determinations of Medicaid eligibility for SSI beneficiaries on behalf of States and to give States other assistance in Medcaid program administration. B. *Why Significant:* The agreements avoid duplication of effort between State and Federal governments and simplify the Medicaid application process for applicants. This revision makes the rules clearer and easier to read. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are being rewritten under "Operation Common Sense" to make the rules clearer and easier to use. E. *Legal Basis:* 42 U.S.C. 1302, 1383, 1383c and 4222. F. *Chronology:* A Notice of Decision to Regulate was published on June 19, 1979 (44 FR 35241).	Cliff Terry, (301) 594-7519, Legal Assistant, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-44—Determination of Assistance Payment When One or More Family Members are SSI Beneficiaries, 45 CFR Parts 233.20 and 233.90.	A. *Description:* The proposed regulations require a State to pay AFDC to the parent of a child SSI recipient where the parent would otherwise be ineligible because the child is eligible for SSI. B. *Why Significant:* These regulations will implement a new provision of law which is intended to see that a potential AFDC family is not adversely affected by a child's SSI eligibility. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are needed to implement a new provision of the Social Security Act, i.e., Section 402(a)(24) as added by Section 414 of Public Law 92-603. E. *Legal Basis:* 42 U.S.C. 602 of the Social Security Act, as amended; Pub. L. 92-603.	Chapin Wilson, (202) 245-2015, Program Specialist, Office of Family Assistance, Room B-416 Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20024.	Proposed Rule October-December 1980.
SSA-45—Fair Hearings, 45 CFR Part 205.10.	A. *Description:* The proposed regulations secodify the rules on fair hearing procedures for financial assistance programs. B. *Why Significant:* The proposed regulations set forth what notices are required to applicants and recipients and prescribe the hearings procedures to allow those individuals to contest an action or delay by the administering agency. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 302(a)(4), 602(a)(4), 1202(a)(4), 1352(a)(4), 1382. F. *Chronology:* A Notice of Decision to Regulate was published on March 19, 1979 (44 FR 16449). There will be companion HDS and HCFA regulations.	Fred Kelly, (202) 245-2025, Deputy Director, Office of Policy, Office of Family Assistance, Room B-428 Trans Point Building, 2100 Second Street., S.W., Washington, D.C. 20024.	Proposed Rule October-December 1980.
SSA-46—Application Eligibility Determinations, and Furnishing Assistance, 45 CFR Part 206.	A. *Description:* These proposed regulations recodify the rules under which State and local agencies process applications and determine eligibility in the Aid to Families with Dependent Children and adult financial assistance programs. B. *Why Significant:* The proposed regulations clarify and amend existing rules. They set out the rights and responsibilities of applicants, recipients and administering agencies. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards. E. *Legal Basis:* 42 U.S.C. 602(a)(10), 1202(a)(11), 1352(a)(10), 1382. F. *Chronology:* A Notice of Decision to Regulate was published March 19, 1979 (44 FR 16449). There will be companion HDS and HCFA regulations.	Marianne S. Pindell, (202) 245-2068, Program Specialist, Office of Family Assistance, Room B 407 Trans Point, Building, 2100 Second Street, S.W., Washington, D.C. 20024.	Proposed Rule October-December 1980.
SSA-47—Provision for Payment of Benefits to Young Husbands and Surviving Divorced Fathers, 20 CFR Part 404, Subpart D.	A. *Description:* These proposed regulations will provide benefits to young husbands of entitled workers who have in their care a child entitled to benefits on the worker's earnings record, and benefits to surviving divorced husbands of entitled workers who have in their care their natural or adopted child entitled to benefits on the worker's earnings record. B. *Why Significant:* These regulations are important because they implement decisions of the District Court of Pennsylvania 12/29/78, in *Cooper* v. *Califano* and of the District Court for the Western District of Kentucky 1/26/79, in *Yates* v. *Califano,* which declared sections 202(b)(1), and 202(d)(1) and 202(g)(1)(F), respectively, to be unconstitutional because they denied husband's benefits solely on the basis of gender and benefits to a surviving divorced father. C. *Regulatory Analysis:* Not required. D. *Need:* The regulations are incorrect as written at present. E. *Legal Basis:* Sections 202(b)(1), and 202(c)(1), and 202(g)(1)(F) of the Social Security Act. F. *Chronology:* A Notice of Decision to Regulate was published on March 27, 1980 (45 FR 20117).	Vera Schlosser (301) 594-7332, Legal Assistant, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235.	Proposed Rule April-June 1980.
SSA-48—Prerecovery Hearing Before Overpayment Recovery, *Califano* v. *Yamasaki,* 20 CFR Part 404, Subpart J, 20 CFR Part 410, Subpart F.	A. *Description:* These proposed regulations require SSA to provide its overpaid beneficiaries with the opportunity for an oral evidentiary hearing concerning waiver before recovering an overpayment. B. *Why Significant:* These regulations incorporate a Supreme Court decision into the regulations. C. *Regulatory Analysis:* Not required. D. *Need:* The Social Security regulations must incorporate interpretations of the Social Security Act's provisions provided by the Supreme Court. E. *Legal Basis:* The Supreme Court decision in *"Califano* v. *Yamasaki".* F. *Chronology:* A Notice of Decision to Regulate was published on March 13, 1980 (45 FR 16201).	Charles Campbell, (301) 594-5551, Legal Assistant, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235.	Proposed Rule July-September 1980.

Social Security Administration—Continued

Title	Summary	Contact	Decision quarter
SSA-49—Recovery of Black Lung, Overpayments from Benefits Due Survivors, 20 CFR Part 410, Subpart E, 20 CFR Part 416, Subpart E,.	A. *Description:* The proposed regulation will provide for recovery of an overpayment of black lung benefits from subsequent black lung benefits payable to the deceased beneficiary's survivors. B. *Why Significant:* The decision provides consistent recovery of overpayemnt policies between the Old-Age, Retirement, and Survivors Insurance programs and the Black Lung program. Recovery may be made against the decedent's survivors when not completed during the beneficiary's lifetime. C. *Regulatory Analysis:* Not required. D. *Need:* Present regulations do not adequately define liability for repayment of a black lung overpayment. Problems have arisen in determining the liability for repayment after the beneficiary's death. E. *Legal Basis:* Secs. 413(b) of Federal Coal Mine Health and Safety Act of 1969, as amended (Federal Safety and Health Act of 1977, title II); Secs. 204 and 1102 of the Social Security Act, as amended; 30 U.S.C. 921 and 42 U.S.C. 404 and 1302. F. *Chronology:* A Notice of Decision to Regulate was published on February 19, 1980 (45 FR 10809).	Marval Cazer, (301) 594-7463, Legal Assistant, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235.	Proposed Rule July-September 1980.
SSA-50—Energy Assistance for Low Income Household.	A. *Description:* These proposed regulations set forth the requirements for States seeking allotments under the Home Energy Assistance Act of 1980. That Act authorizes grants to States for assistance to eligible low income households to offset the rising costs of home energy. B. *Why Significant:* These regulations provide comprehensive rules for State plans governing payment of Federal assistance for the cost of home energy to low income households, including eligibility criteria, payment amount criteria an development and approval of State plans. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are required by sec. 313(a)(2) of the Home Energy Assistance Act of 1980. E. *Legal Basis:* Section 313, Title III of Pub. L. 96-223, 94 Stat. 298; 42 U.S.C. 8612. F. *Chronology:* Interim Final Regulations were published on	Ira Goldstein, Director, Office of Policy, Office of Family Assistance, Room B-428 Trans Point Bldg., 2100 Second Street, S.W., Washington, D.C. 20024.	Final Rule July-September 1980.

Office of Child Support Enforcement

Title	Summary	Contact	Decision quarter
OCSE-1—Office of Child Support Enforcement—Availability and Rate of Federal Financial Participation, 45 CFR Part 304.	A. *Description:* This final regulation will provide for Federal Financial Participation in the costs of child support enforcement services provided by State IV-D agencies to individuals who are not eligible for cash assistance under the Aid to Families with Dependent Children (AFDC) program between October 1, 1978 and March 31, 1980. B. *Why Significant:* This regulation will extend from September 30, 1978 to March 31, 1980. The Federal government's financial participation for State child support enforcement agencies expenses for services provided to non-AFDC families during the period October 1, 1978 through March 31, 1980. C. *Regulatory Analysis:* Not required. D. *Need:* P.L. 96-178, January 2, 1980 authorized a continuation of FFP for the non-AFDC program through March 31, 1980. E. *Legal Basis:* PL 96-178, 42 U.S.C. 652(a)	Mike Fitzgerald, (301) 443-5301, Program Analyst, Policy Branch, Office of Child Support Enforcement, 6110 Executive Blvd., Room 924, Rockville, MD 20852.	Final Rule July-September 1980.
OCSE-2—Office of Child Support Enforcement—Strengthening of CSE, Audit and Penalty Regulations, 45 CFR Parts 301, 302, 304, and 305.	A. *Description:* These proposed regulations will revise, clarify, and strengthen the existing regulations which provide for an annual audit of the effectiveness of State Child Support Enforcement programs under Title IV-D of the Social Security Act. B. *Why Significant:* These regulations specify the Secretary's criteria for an effective program and are the basis for Federal audit and for reducing Federal funds for the Aid to Families with Dependent Children (AFDC) programs in States that fail to have an effective child support program. C. *Regulatory Analysis:* Not required. D. *Need:* These proposed regulations are the first step in OCSE's commitment to strengthen the Child Support Enforcement program audit and penalty regulations after obtaining additional program and audit experience. E. *Legal Basis:* 42 U.S.C. 1302 and 42 US.C 652(a). F. *Chronology:* A Notice of Decision to Develop Regulations was published on February 27, 1980 (45 FR 12857).	Maurice Huguley, (301) 443-5301, Legislation and Regulations Analyst, Policy Branch, Office of Child Support Enforcement, 6110 Executive Blvd., Room 924, Rockville, MD 20852.	Proposed Rule July-September 1980.
OCSE-3—Office of Child Support Enforcement—Optional Procedures for Distribution of Child Support Collections (Immediate Distribution), 45 CFR Parts 302 and 304.	A. *Description:* These final regulations will permit State Child Support Enforcement agencies to distribute AFDC child support collections immediately upon receipt. In addition, they will provide these same agencies the option of using the current rate of FFP in their respective State's AFDC program to calculate the amount of each child support collection to be applied as reimbursement of the Federal government's share of AFDC payments. B. *Why Significant:* The revision of these regulations will provide significant administration benefits for the States that choose to use them. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations will permit more efficient State distribution procedures, will reduce an unwarranted administrative burden, and will make State IV-D programs more effective. E. *Legal Basis:* 42 U.S.C. 1302, 42 U.S.C. 652(a).	Frank Lindh, (301) 443-4276, Program Analyst, Policy Branch, Office of Child Support Enforcement, 6110 Executive Blvd., Room 924, Rockville, MD 20852.	Final Rule July-September 1980.
OCSE-4—Office of Child Support Enforcement—OCSE Recodification, Phase I, 45 CFR Parts 302 and 304.	A. *Description:* These proposed regulations will reorganize and clarify several existing OCSE regulations including those on Distribution of Child Support Collections and the availability of Federal financial participation. B. *Why Significant:* These proposed regulations will be written in simpler, clearer language as part of the Department's "Operation Common Sense" initiative. In addition, substantive policy changes will be proposed in the regulations regarding availability and restrictions on Federal Financial Participation and Internal Revenue Service collection. C. *Regulatory Analysis:* Not required.	Steve Henigson (301) 443-4276, Chief, Policy Branch, Office of Child Support Enforcement, 6110 Executive Blvd., Room 924, Rockville, MD 20852.	Proposed Rule July-September 1980.

Office of Child Support Enforcement—Continued

Title	Summary	Contact	Decision quarter
	D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards and to make substantive policy needed to improve the operation of the Child Support Enforcement program. E. *Legal Basis:* 42 U.S.C. 652(a). F. *Chronology:* A Notice of Intent to develop the proposed regulations was published on August 3, 1978 (43 FR 34164).		
OCSE-5—Office of Child Support Enforcement—OCSE Recodification, Phase II, 45 CFR Parts 302 and 303.	A. *Description:* These proposed regulations clarify and revise all existing OCSE regulations in Part 302 not included in the Phase I OCSE recodification. B. *Why Significant:* These proposed regulations will clarify existing regulations so as to make them more readily understandable. In addition, several substantive policy changes will be proposed in the regulations. C. *Regulatory Analysis:* Not required. D. *Need:* These regulations are being rewritten to meet the Department's "Operation Common Sense" standards and to make substantive policy needed to improve the operation of the Child Support Enforcement program. E. *Legal Basis:* 42 U.S.C. 652(a). F. *Chronology:* A Notice of Intent to develop the proposed regulations was published on August 3, 1978 (43 FR 34164).	Steve Henigson (301) 443-4276, Chief, Policy Branch, Office of Child Support Enforcement, 6110 Executive Blvd., Room 924, Rockville, MD 20852.	Proposed Rule July-September 1980.

Office of the Secretary

Title	Summary	Contact	Decision
OS-1—HEW's Age Discrimination Regulations.	A. *Description:* These regulations prohibit age discrimination in programs and activities receiving financial assistance from HEW. B. *Why Significant:* Protects individuals from age discrimination in HEW-assisted programs and activities. C. *Regulatory Analysis:* Not required. D. *Need:* To implement requirements of the Age Discrimination Act and government-wide age discrimination regulations (45 CFR Part 90) which require agency specific age discrimination regulations. E. *Legal Basis:* Pub. L. 94-135; 42 U.S.C. 6101 *et seq.* 45 CFR Part 90. F. *Chronology:* Government-wide age discrimination regulations published by HEW on June 12, 1979 (45 CFR 33768); HEW's agency specific NPRM published September 24, 1979 (44 FR 55107). Comment period ended November 23, 1979. G. *Citation:* 45 CFR Part 91.	Bayla White, Director, Age Discrimination Task Force, (202) 245-6284, Room 716E, 200 Independence Ave. SW., Washington, D.C. 20201.	Final Rule: September 1980.
OS-3—Privacy Act Regulation	A. *Description:* These regulations implement the Privacy Act of 1974 in HEW by establishing agency policies and procedures for the maintenance of systems of individually identifiable personal records. B. *Why Significant:* The revised regulation will improve HEW's service to the public by making it easier for citizens to understand the procedures for exercising their rights under the Privacy Act. C. *Need:* The proposed revision is necessary to comply with the Department's Operation Common Sense and the President's Executive Order No. 12044. Both of these initiatives require the Department to revise its regulations to be easier for the public to read and understand. E. *Legal Basis:* 5 U.S.C. 552a; 5 U.S.C. 301. F. *Chronology:* The Department published its original regulation in the FEDERAL REGISTER on October 8, 1975. G. *Citation:* 45 CFR Part 5b.	Hugh V. O'Neill, (202) 245-7588, HEW Privacy Act Coordinator, Department of Health, Education, and Welfare, Room 526F, 200 Independence Ave. SW., Washington, D.C. 20201.	Proposed Rule: November 1980.
OS-4—Department Staff Manual—Information Security Program; General Requirements: Handling, marking, transmitting, storing, and safeguarding of national security information.	A. *Description:* This manual would implement Executive Order 12065, National Security Information, by requiring each agency of the Department to comply with the provisions of the Order relating to the classification, downgrading, declassification and safeguarding of national security information. B. *Why Significant:* The manual would outline general responsibilities for Department officials and employees who would be concerned with national security information, and it further outlines procedures whereby a member of the public, a government employee or agency can request the declassification and release of information originally classified by the Department. C. *Regulatory Analysis:* "Yes, being conducted." D. *Need:* To implement the provisions of Executive Order 12065 by providing general policies and procedures for the protection of national security information that is under the control of the Department. E. *Legal Basis:* Executive Order 12065, published on July 3, 1978 (43 FR 28949). F. *Chronology:* Notice was published June 4, 1979, (44 FR 31981) Deletion of obsolete regulation; notice on availability of interim Department Security Manual. "Final Rule" currently under review.	Kenneth E. Lopez, Director, Division of Security and Protection, Office of Investigations, Office of the Inspector General, Department of Health, Education, and Welfare, Room 5455, North Building, 330 Independence Avenue SW., Washington, D.C. 20201, telephone: 202-245-6566.	Final Rule: November 1980.
OS-5—Availability of Information to the Public.	A. *Description:* This proposal would revise our rules for handling requests for information under the Freedom of Information Act. It tells how to make a Freedom of Information request; who can release information and who can decide not to release it; how much time it should take; how much we charge, and what can be done if we do not release information. B. *Why Significant:* Substantial interest is anticipated because the proposal amplifies and clarifies out procedures for responding to public requests for information. C. *Regulatory Analysis:* Not required. D. *Need:* Recent court decisions and our experience since the last revision in 1974 require modifying our rules to implement the Freedom of Information Act.	Russell M. Roberts, Freedom of Information Officer, Office of Public Affairs, HEW, Room 118F, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201 472-7453.	Proposed Rule: October 1980.

Office of the Secretary—Continued

Title	Summary	Contact	Decision
	E. *Legal Basis:* 5 U.S.C. 552, U.S.C. 301, 42 U.S.C. 1306, and 31 U.S.C. 483a. F. *Chronology:* Notice of intent to revise this regulation was published on November 18, 1976 (41 FR 50846). The comment period closed on January 17, 1977. The NPRM will have a comment period.		
OS-6—Nondiscrimination on the Basis of Race, Color or National Origin Under Programs Receiving Federal Assistance Through the Department of Health and Human Services 45 CFR Part 80.	A. *Description:* These revised regulations carry out the provisions of Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin in programs receiving federal financial assistance from the Department of Health and Human Services. B. *Why Significant:* The proposed regulations revise the Department's existing Title VI regulations to (1) delete references to programs now funded by the Department of Education, (2) add examples and provisions specific to programs funded by the Department of Health and Human Services, (3) incorporate suggestions from the Department of Justice under their Title VI coordination responsibilities, and (4) improve readability. C. *Regulatory Analysis:* Decision pending on completion of preliminary study. D. *Need:* The Department is no longer responsible for programs transferred to the Department of Education. Examples and references to those programs are deleted in the revision, and more emphasis is put on health and human services issues and programs. In addition, the Department of Justice in a letter on March 3, 1980 proposed that specific changes be made in the regulations pursuant to 28 CFR 42.401–.415. Some of these proposals are included in the proposed revision. E. *Legal Basis:* Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* F. *Chronology:* None	Brenda Kohn, Staff Attorney Office of the General Counsel, Civil Rights, Washington, D.C. 20201, 202–245–7420.	Proposed Rule: Oct.–Dec. 1980.
OS-7—Publicizing "Adverse" Information.....	A. *Description:* This regulation has been rewritten and simplified to make it easier for people to understand how they can obtain a retraction or correction when HEW has issued an incorrect statement about them that adversely affects them. B. *Why Significant:* This regulation would clarify and simplify our policy and implement a recommendation of the Administrative Conference of the United States. C. *Regulatory Analysis:* Not required. D. *Need:* The regulation would implement a recommendation of the Administrative Conference of the United States and set out the rights of persons asking HHS to correct erroneous information and the limits on HHS employees in releasing "adverse" information. E. *Legal Basis:* 5 U.S.C. 301. F. *Chronology:* A proposed rule was published on February 19, 1980 (45 F.R. 10820). The comment period closed on April 21, 1980.	Russell M. Roberts, Office of Public Affairs, Room 118F, Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, (202) 472–7453..	Final: November 1980.
OS-8—Joint Recodification Project—AFDC, Adult Financial Assistance, Medicaid, Social Service Programs (SSA, HCFA, OHDS).	A. *Description:* These regulations will revise the requirements for State administration of the applications, eligibility determinations and fair hearings procedures in the concerned programs. B. *Why Significant:* These regulations govern critical aspects of State procedures that directly affect individuals and families seeking and receiving assistance in all the States and territories. C. *Regulatory Analysis:* A threshold study is being prepared. D. *Need:* To clarify requirements, and to establish coordinated procedures in order to simplify administration in the States and territories. E. *Legal Basis:* Sections 2(a)(8), 402(a)(10), 1002(a)(11), 1102, 1402(a)(10), 1602(a)(8), (AABD) and 1902(a)(8) of the Social Security Act. F. *Chronology:* A Notice of Decision to Develop Regulations was published March 19, 1979 at 44 F.R. 16449.	Terry Bancroft Dowd, Deputy General Counsel for Regulatory Review, Coordinator-Joint Recodification Task Force, (202) 245–6733, Office of the General Counsel, HHS, Room 706.E, 200 Independence Avenue, S.W., Washington, D.C. 20201.	Proposed Rule: October–December 1980.

[FR Doc. 80-17623 Filed 6-13-80; 8:45 am]

BILLING CODE 4110-12-M

federal register

Friday
June 13, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction, General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Missouri.—MO80–4040.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA79–5124	June 29, 1979.
Georgia:	
GA79–1148	Nov. 16, 1979.
GA79–1149	Nov. 23, 1979.
GA80–1066	Apr. 25, 1980.
Indiana:	
IN80–2015	Apr. 11, 1980.
Michigan:	
MI79–2019	May 4, 1979.
New York:	
NY79–3036	Dec. 21, 1979.
Tennessee:	
TN79–1104	June 29, 1979.
TN79–1146	Nov. 16, 1979.
TN80–1067	Apr. 25, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of decisions being supersedes and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arizona:	
AZ79–5100 (AZ80–5116)	Feb. 9, 1979.
Louisiana:	
LA80–4014 (LA80–4026)	Jan. 25, 1980.
LA80–4014 (LA80–4027)	Jan. 25, 1980.
Michigan:	
MI77–2041 (MI80–2047)	Mar. 25, 1977.
MI76–2107 (MI80–2046)	Aug. 20, 1976.
Minnesota:	
MN79–2025 (MN80–2035)	May 5, 1979.
Tennessee:	
TN78–1090 (TN80–1078)	Oct. 20, 1978.
Wyoming:	
WY79–5109 (WY80–5119)	Mar. 16, 1979.

Cancellation of General Wage Determination Decisions

This is to advise all interested parties that the Department of labor intends to withdraw 14 days from the date of this

notice the following general wage determinations:

NM79-4103—Statewide, New Mexico dated November 2, 1979 in 44 FR 63443—Building and Heavy Projects (also including residential construction projects in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties, New Mexico (but does not include Heavy Construction on the Navajo Indian Reservation).

NM79-4104—Statewide, New Mexico dated November 2, 1979 in 44 FR 63456—Sewer and Water, Highway Projects except on the Navajo Indian Reservation.

Signed at Washington, D.C., this 6th day of June, 1980.

Dorothy P. Come,

Assistant Administrator Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: Missouri COUNTY: Pulaski
DECISION NO.: M080-4040 DATE: Date of Publication
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.82	.50	1.00		.04
BOILERMAKERS	13.02	1.275	1.00		.05
BRICKLAYERS, STONEMASONS & TILE LAYERS	10.60		.35		
CARPENTERS:					
Projects under $250,000.00	10.46	.70	.80	.50	.02
Projects $250,000.00 & over	10.96	.70	.80	.50	.02
ELECTRICIANS:					
Electricians	12.795	.47	3%+1.00	6%	.02
Cable splicers	13.195	.47	3%+1.00	6%	.02
IRONWORKERS, structural, ornamental, reinforcing	12.075	.55	1.05		.09
LABORERS:					
Laborers, general	9.65	.60	.50		.10
Plumber laborers, hod carriers, plaster tenders & mason tenders	10.00	.60	.50		.10
Powderman	10.65	.60	.50		.10
LATHERS	11.45				
PAINTERS:					
Brush & roller	10.25	.70	.35		
Taping, paperhanging & floor work	10.75	.70	.35		
Spray, structural steel & sandblasting	11.50	.70	.35		
PIPEFITTERS	12.95	2.165	1.51		
PLUMBERS	12.505	.80	.95	.90	.20
ROOFERS	7.90	.46	.20		
SHEET METAL WORKERS	11.94	.56+3%	.76	.96	.04
TRUCK DRIVERS:					
GROUP 1	8.50	.50	.50		
GROUP 2	8.90	.50	.50		
GROUP 3	8.97	.50	.50		
GROUP 4	9.02	.50	.50		
GROUP 5	9.17	.50	.50		
GROUP 6	10.00	.50	.50		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Ft. Leonard Wood Only:					
GROUP 1	9.50	.50	.50		
GROUP 2	9.65	.50	.50		
GROUP 3	9.72	.50	.50		
GROUP 4	9.77	.50	.50		
GROUP 5	9.92	.50	.50		
GROUP 6	10.75	.50	.50		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP 1 - flat bed drivers; pick-ups and station wagons; tireman & station attendant; dump, single axle
GROUP 2 - Flat bed, tandem axle; dump, tandem; tank trucks, single axle
GROUP 3 - Agitator & transit-mix
GROUP 4 - Winch trucks; steel haulers, derrick & A-trucks; distributors drivers & operators; tank truck; tandem & semi-tractors; wheel tractors; oilers, greasers & mechanic helpers; heavy excavating & hauling euclids, dumpsters, etc.
GROUP 5 - Fork lifts & high lifts, etc., when unloading or carrying
GROUP 6 - Mechanics

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	12.12	.75	1.00		
GROUP 2	12.12	.75	1.00		
GROUP 3	10.87	.75	1.00		
GROUP 4	10.27	.75	1.00		
GROUP 5:					
(a)	12.82	.75	1.00		
(b)	13.67	.75	1.00		
(c)	14.12	.75	1.00		
(d)	14.87	.75	1.00		
(e)	12.62	.75	1.00		
GROUP 6	13.12	.75	1.00		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Backhoe; cableway; crane, crawler or truck; crane, hydraulic truck or cruiser mounted 16 tons & over; crane, locomotive, derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; piledriver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); switch boat; whirley

GROUP 2 - Air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat oper. push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressor (when operator runs throttle); compressors, two not more than 50' apart; compressor-generator combination; compressor pump combination; compressor welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick & concrete into, or into & on floor level, one or both; crane, hydraulic rough terrain, self-propelled; crane, hydraulic truck or cruiser mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills & any hand drills obtaining power from other sources including concrete breakers, jackhammers & barco equipment no engineer required); elevating grader, engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; fork lift; grader, road with power blade; highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower mobile, or similar equipment); hoist, stack; hydro hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as Barber-Greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix job site; plant, heating job site; plant, mixing job site; plant, power, generating job site; pumps, two self-power over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or subgrade; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take offs, & attachments regardless of size; trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP 3 - Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; compressor, air one; compressor, air (mounted on truck); concrete saw, (self-propelled); conveyor, large (not self-propelled) conveyor, large (not self-propelled) moving brick & concrete (distributing) on floor level; curb finishing machine, ditch paving machine;elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD:

GROUP 3 CONTD:
KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixers, with side loader, 2 bag capacity or more; mixer,with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; scissor lift (used for hoisting); sweeper, street; tractor small wheel type 50 h.p. & under with grader blade & similar equipment; welding machine, one over 400 amp.; winch operating from truck; mechanic in shop

GROUP 4 - Boat operator outboard motor (job site); conveyors, such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP 5 (a) - Air pressure; oiler engineer operating under ten pounds
(b) - Air-pressure, oiler engineer operating over ten pounds
(c) - Air pressure engineer operating under ten pounds
(d) - Air pressure oiler engineer operating over ten pounds
(e) - Crane, climbing (such an linden); crane, pile driving & extracting; crane, using rock socket tool; derrick, diesel, gas or electric, hoisting material erecting steel (150" or more above ground); dragline, 7 cu. yds. & over; hoist, three or more drums in use; scoop, tandem; shovel, power 7 cu. yds. & over; tractor, tandem crawler, tunnel man assigned to work in tunnel or tunnel shaft; wrecking, when machine is working on second or higher; crane-booms (including jib) 100 ft. to 150 feet

GROUP 6 - Crane, boom (including jib) 150 feet to 300 feet

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)."

DECISION NO. CA79-5124-Mod. #1

(44 FR 38123-June 29, 1979)
San Diego County, California

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Carpenters	$12.53	.71	$1.55	.80	.07
Piledrivermen	12.69	.71	1.55	.80	.07
Millwrights; Pnematic Nailer; Hardwood Floorlayers	12.81	.71	1.55	.80	.07
Drywall Installers	13.45	.71	1.55	1.00	.07
Painters:					
Brush, Paint Burner	13.21	1.23	1.43	.75	.07
Brush (Swing Stage), Spray	13.46	1.23	1.43	.75	.07
Paperhanger, Spray (Swing Stage)	13.71	1.23	1.43	.75	.07
Sandblaster; Sandblaster (Swing Stage); Iron, steel and bridge painters (swing stage) Iron, steel and bridge painter, Spray (Swing Stage)	13.96	1.23	1.43	.75	.07
Iron, steel and bridge painter (groundwork); Iron, steel and bridge painters, Spray (groundwork); Riggers, climbing steel; Brush, climbing steel and bridge; Spray, climbing steel and bridge	14.21	1.23	1.43	.75	.07
Steeplejack	14.86	1.23	1.43	.75	.07
Parking Lot Work and/or Highway Markers:					
Traffic delineating device applicator	10.72	.90	.50	b	
Wheel stop installer; Traffic surface sandblaster; Striper	10.33	.90	.50	b	

DECISION NO. CA79-5124 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Slurry Seal Operation:	$10.33	.90	.50	b	
Mixer Operator	9.14	.90	.50	b	
Squeege Man	9.14	.90	.50	b	
Applicator Operator	9.14	.90	.50	b	
Shuttleman	9.14	.90	.50	b	
Top Man	7.60	.90	.50	b	
ELECTRICIANS:					
Electricians	15.98	.75	3%+1.71		.09
Cable Splicers	16.28	.75	3%+1.71		.09
LABORERS:					
Group 1	9.40	.77	2.05	1.00	.13
Group 2	9.70	.77	2.05	1.00	.13
Group 3	9.90	.77	2.05	1.00	.13
Group 4	10.15	.77	2.05	1.00	.13
Omit:					
Parking Lot Work and/or Highway Markers: Helper (traffic surface sandblaster; Wheel stop installer; Striper)	7.43	.85	.45	b	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION #GA79-1148 - Mod. #3 (44 FR 66135 - November 16, 1979) Chatham County, Georgia					
CHANGE:					
Boilermakers	$11.75	1.275	1.10		.04
DECISION #GA79-1149 - Mod. #2 (44 FR 67307 - November 23, 1979) Richmond County, Georgia					
CHANGE:					
Boilermakers	$11.75	1.275	1.10		.04
DECISION #GA80-1066 - Mod. #1 (45 FR 28062 - April 25, 1980) Clayton, DeKalb, and Fulton Counties, Georgia					
CHANGE:					
Boilermakers	$11.75	1.275	1.10		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN80-2015 - MOD. #2 (45 FR 24985 - April 11, 1980)					
Statewide, Except Lake, LaPorte, Porter and St. Joseph Counties					
Change:					
CARPENTERS:					
Elkhart County	$11.88	.90	.90		.05
CEMENT MASONS:					
Greene & Sullivan Cos.	12.05	.60	1.00		.04
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Cos.:					
GROUP I	12.34	.50	1.00		.10
GROUP II	11.03	.50	1.00		.10
GROUP III	10.36	.50	1.00		.10
GROUP IV	9.19	.50	1.00		.10
POWER EQUIPMENT OPERATORS: (Tunnel & Sewer Construction)					
Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Cos.:					
GROUP I	12.30	.75	.65		.10
GROUP II	11.30	.75	.65		.10
GROUP III	9.40	.75	.65		.10
GROUP IV	8.30	.75	.65		.10

DECISION NO. IN80-2015- (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Tunnel & Sewer Construction)					
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Cos.					
GROUP I	$12.95	.75	.75		.08
GROUP II	12.85	.75	.75		.08
GROUP III	12.65	.75	.75		.08

DECISION NO. MI79-2019 - MOD. #5
(44 FR 26457 - May 4, 1979)
Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Washtenaw County	$15.37		1.30		

DECISION NO.: NY79-3036 - Mod. #2
(44 FR 56402 - December 21, 1979)
Oneida County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Rome City, Ava, Western, Floyd, Boonville and Steuben:					
New Construction:					
Brush and Roller	10.64	.80	.50	g	
Paperhangers, Vinyl Hangers and Tapers	11.23	.80	.50	g	
Metalizing	12.81	.80	.50	g	
Steel, Working with picks, Bosun Chair, Window Jacks, Swing Stage, Safety Belts, Steeple Jack, Spray, Sandblasting, Steamcleaning, Eqpxy, Bridge and Hydro-blasting	11.34	.80	.50	g	
Omit:					
PAINTERS:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Rome City, Ava, Western, Floyd, Boonville and Steuben:					
Repaint Work					

DECISION #TN79-1104 - Mod. #4
(44 FR 38137 - June 29, 1979
Hamilton, Marion, Polk, & Rhea Counties, Tennessee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$12.87	.55	.70		.06
Boilermakers	11.75	1.275	1.10		.04
Electricians:					
Wiremen	12.32	.75	10%		1%
Cable splicers	12.57	.75	10%		1%
Line Construction:					
Linemen, hole digging equipment operator, and tractor with winch	12.32	.75	10%		½ of 1%
Cable splicers	12.57	.75	10%		½ of 1%
Truck without winch	10.61	.75	10%		½ of 1%
Groundmen	8.80	.75	10%		½ of 1%
Painters:					
Painters	9.50	.45	.40		
Paperhangers, wall coverers, drywall finishers	9.75	.45	.40		
Sandblast & waterblast	10.00	.45	.40		
Painters - tanks, steel towers, stacks, bridges, & pumping stations	9.75	.45	.40		
Plumbers & Pipefitters	12.35	.65	.70	c	.08
Sheet metal workers:					
Hamilton County	11.60	.77	.96		.08
All other Counties	12.10	.77	.96		.08
Sprinkler fitters	12.80	.85	1.20		.08

DECISION #TN79-1146 - Mod. #1
(44 FR 66147 - November 16, 1979)
Davidson County, Tennessee

CHANGE:					
Boilermakers	$11.75	1.275	1.10		.04
Electricians	12.40	.60	3%		½ of 1%
Plumbers & Pipefitters	11.70	.75	.80		.07
Sprinkler fitters	12.80	.85	1.20		.08

DECISION #TN80-1067 - Mod. #1
(45 FR 28071 - April 25, 1980)
Shelby County, Tennessee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$11.75	1.275	1.10		.04
Carpenters, Piledrivermen, & Soft floor layers	10.58	.75	.70		.085
Ironworkers	11.30	.73	.85		.145
Laborers:					
Group 1	7.655	.30	.45		.05
Group 2	7.755	.30	.45		.05
Group 3	7.805	.30	.45		.05
Group 4	8.005	.30	.45		.05
Group 5	8.205	.30	.45		.05
Group 6	8.35	.35	.45		.05
Millwrights	11.95	.90	.60		.25
Plasterers	12.15				.01
Power Equipment Operators:					
Class A	10.775	.50	.50		.20
Class B	10.345	.50	.50		.20
Class C	9.645	.50	.50		.20
Class D	9.245	.50	.50		.20
Truck Drivers:					
Trucks - up to but not including 5 tons	8.255		c		
Trucks - 5 tons and over including special equipment	8.655		c		
ADD:					
Elevator constructors' helpers	7.39	.895	.69	a + b	.03
OMIT:					
Lathers	9.30	.25			

STATE: Arizona COUNTIES: Statewide
DECISION NUMBER: AZ80-5116 DATE: Date of Publication
Supersedes Decision No. AZ79-5100 dated February 9, 1979, in 43 FR 8482
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:*					
Zone 1	$14.19	.82	$1.30		.03
Zone 2	14.89	.82	1.30		.03
Zone 3	15.09	.82	1.30		.03
Zone 4	15.54	.82	1.30		.03
Zone 5	17.69	.82	1.30		.03
BOILERMAKERS	14.36	1.175	1.00	1.00	.03
BRICKLAYERS; Stonemasons:*					
Northern Area:*					
Zone A	12.52	.65	1.10		.09
Zone B	13.53	.65	1.10		.09
Zone C	14.15	.65	1.10		.09
Zone D	14.77	.65	1.10		.09
Zone E	15.27	.65	1.10		.09
Zone F	16.28	.65	1.10		.09
Southern Area:*					
Zone A:					
Bricklayers; Stonemasons	11.96	1.00	.95		.06
Manhole Builders	12.21	1.00	.95		.06
Zone B:					
Bricklayers; Stonemasons	12.33	1.00	.95		.06
Manhole Builders	12.58	1.00	.95		.06
Zone C:					
Bricklayers; Stonemasons	12.71	1.00	.95		.06
Manhole Builders	12.96	1.00	.95		.06
Zone D:					
Bricklayers; Stonemasons	13.46	1.00	.95		.06
Manhole Builders	13.71	1.00	.95		.06

*See AREA and ZONE Definitions - following page

AREA and ZONE DEFINITIONS

ASBESTOS WORKERS:
Zone 1: Area lying within 15 miles radius from the City Hall in Phoenix or Tucson
Zone 2: Area lying beyond the limits of Zone 1 and within 30 miles radius from the City Hall in Phoenix or Tucson
Zone 3: Area lying beyond the limits of Zone 2 and within 40 miles radius from the City Hall in Phoenix or Tucson
Zone 4: Area lying beyond the limits of Zone 3 and within 50 miles radius from the City Hall in Phoenix or Tucson
Zone 5: Area lying beyond the limits of Zone 4

BRICKLAYERS; STONEMASONS:
Northern Area: Apache, Coconino and Gila Counties; Graham County (west and north of the San Francisco River to the Gila River); Greenlee County (west and north of the San Francisco River to the Gila River); Maricopa, Mohave, and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Yavapai, and Yuma Counties:

Zone A: 0-35 road miles from the City Hall in Phoenix
Zone B: 35-50 road miles from the City Hall in Phoenix
Zone C: 50-75 road miles from the City Hall in Phoenix
Zone D: 75-100 road miles from the City Hall in Phoenix
Zone E: 100-200 road miles from the City Hall in Phoenix
Zone F: 200 road miles and over from the City Hall in Phoenix

Southern Area: Cochise County; Graham County (east and south of the San Francisco River to the Gila River); Greenlee County (east and south of the San Francisco River to the Gila River); Pima County; Pinal County (south of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Santa Cruz Counties:

Zone A: 0-15 road miles from Tucson City limits
Zone B: 15-30 road miles from Tucson City limits
Zone C: 30-40 road miles from Tucson City limits
Zone D: Over 40 road miles from Tucson City limits

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: *					
Northern Area:					
Carpenters; Drywall Applicator; Saw Filer; Shingler	$13.56	$1.075	$1.085		.05
Floorlayers (finish); Piledrivermen	13.865	1.075	1.085		.05
Millwrights	14.005	1.075	1.085		.05
Central and Southern Areas:					
Carpenters; Saw Filers	11.435	1.075	1.085		.05
Floorlayers (finish); Piledrivermen	11.74	1.075	1.085		.05
Millwrights	11.88	1.075	1.085		.05
CEMENT MASONS:*					
Zone 1:					
Northern Area:					
Cement Masons	13.085	.95	1.30		.05
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine	13.255	.95	1.30		.05
Central & Southern Areas:					
Cement Masons	11.21	.95	1.30		.05
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine	11.38	.95	1.30		.05
Zone 2:					
Cement Masons	11.44	.92	1.10		.05
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine; Clary and similar type of power screed operator	11.61	.92	1.10		.05
DRYWALL TAPERS:*					
Zone A:	11.96	.59	.50		.12
Zone B:	12.96	.59	.50		.12
Zone C:	14.21	.59	.50		.12

*See AREA and ZONE Definitions - following page.

AREA and ZONE DEFINITIONS

CARPENTERS:
Northern Area: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

Central and Southern Areas: All areas not included in the Northern Area

CEMENT MASONS:
Zone 1: Apache, Coconino, and Gila Counties; Graham County (north of Sentinel - Casa Grande - Safford Line); Greenlee County (north of Sentinel - Casa Grande - Safford Line); Maricopa County (north of Sentinel - Casa Grande - Safford Line); Mohave and Navajo Counties; Pinal County (north of Sentinel - Casa Grande - Safford Line); Yavapai and Yuma Counties:

Northern Area: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

Central and Southern Areas: All areas not included in the Northern Area

Zone 2: Cochise County; Graham County (south of Sentinel - Casa Grande - Safford Line); Greenlee County (south of Sentinel - Casa Grande - Safford Line); Maricopa County (south of Sentinel - Casa Grande - Safford Line); Pima County; Pinal County (south of Sentinel - Casa Grande - Safford Line); Santa Cruz County

DRYWALL TAPERS:
Zone A: 0-40 road miles from Courthouse in Phoenix; Also Luke and Williams Air Force Bases

Zone B: 41-60 road miles from Courthouse in Phoenix

Zone C: 61 road miles and over from Courthouse in Phoenix

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:*					
Area 1:					
Electricians	$15.06	.60	3%+.70		1/2%
Cable Splicers	15.69	.60	3%+.70		1/2%
Area 2:					
Electricians	13.80	.96	.88		1/2%
Area 3:					
Zone A:					
Electricians; Technicians	15.07	.60	11%		1%
Cable Splicers	15.32	.60	11%		1%
Zone B:					
Electricians; Technicians	15.81	.60	11%		1%
Cable Splicers	16.06	.60	11%		1%
Zone C:					
Electricians; Technicians	16.44	.60	11%		1%
Cable Splicers	16.69	.60	11%		1%
Zone D:					
Electricians; Technicians	17.19	.60	11%		1%
Cable Splicers	17.44	.60	11%		1%
Area 4:					
Electricians	14.85	.96	3%+.88		3/4%
Area 5:					
Zone A:					
Electricians	14.94	.60	11%		1/2%
Cable Splicers	15.19	.60	11%		1/2%
Zone B:					
Electricians	15.68	.60	11%		1/2%
Cable Splicers	15.93	.60	11%		1/2%
Zone C:					
Electricians	16.31	.60	11%		1/2%
Cable Splicers	16.56	.60	11%		1/2%
Zone D:					
Electricians	17.06	.60	11%		1/2%
Cable Splicers	17.31	.60	11%		1/2%
ELEVATOR CONSTRUCTORS	13.85	.895	.69	a	.03
GLAZIERS:					
Statewide excluding Bullhead City	12.17	.90	.30		.01
Bullhead City	15.46	.75	.40		.05

*See AREA and ZONE Definitions - following page

AREA and ZONE DEFINITIONS

ELECTRICIANS:

Area 1: Apache County (north of Highway #66)

Area 2: Coconino County; Navajo County (north and west of a boundary line beginning at a point where Clear Creek crosses the Coconino/Navajo County Line and then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line)

Area 3: Apache County (south of Highway #66); Gila County; Navajo County (south and east of a boundary beginning at a point where Clear Creek crosses the Coconino/Navajo County Line, then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line); Pinal County (north of the line, "First Standard Parallel South" and east of the line "Second Guide Meridian East"):

Zone A: Area within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing; Area within 12 miles radius from the school in Lakeside, Arizona

Zone B: Area within 16-28 road miles from point where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing

Zone C: Area within 28-46 road miles from point where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing

Zone D: Area 46 road miles and over from point where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing; Area over 12 miles radius from school in Lakeside, Arizona

AREA and ZONE DEFINITIONS (Cont'd)

ELECTRICIANS: (Cont'd)

Area 4: Maricopa and Mohave Counties; Pinal County (north and west of the boundary line beginning at a point where the Papago Indian Reservation Road #15 crosses the Pima/Pinal County Line, then extending in a northeasterly direction on the Papago Indian Reservation Road #15 to the intersection with the Florence Canal, north and east on the Florence Canal to the intersection with the line, "Second Guide Meridian East", then north to the Pinal/Maricopa County Line); Yavapai County

Area 5: Cochise, Graham, Greenlee, and Pima Counties, Pinal County (south and east of the boundary line beginning at a point where the Papago Indian Reservation Road #15 crosses the Pima/Pinal County Line, then extending in a northeasterly direction on the Papago Indian Reservation Road #15 to the intersection with the Florence Canal, north and east on the Florence Canal to the intersection with the line, "Second Guide Meridian East", then north to the line, "First Standard Parallel South", and along that line to the Graham/Pinal County Line); Santa Cruz and Yuma Counties:

Zone A: Area within 16 miles radius from the City Hall in Tucson or Yuma; Area within 16 road miles from center of Town in Douglas, Nogales or Sierra Vista; Area within the boundaries of the incorporated city limits of Parker, plus an area extending from the south city limits of Parker in a northeasterly direction to Milepost No. 150 located on State Highway #95, northeast of Parker from the Colorado River on the west, an area 1 mile wide paralleling the Colorado River

Zone B: Area lying beyond the limits of Zone A extending to and including 12 road miles excluding area near Douglas, Nogales and Sierra Vista

Zone C: Area lying beyond the limits of Zone B extending up to and including 18 road miles, excluding area near Douglas, Nogales and Sierra Vista

Zone D: Area lying beyond the limits of Zone C; For area near the Cities of Douglas, Nogales, Sierra Vista, the area lying beyond the limits of Zone A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:*					
Northern Area	$15.61	$1.54	$2.57		.11
Central and Southern Areas	13.35	1.54	2.57		.11
LATHERS:*					
Area 1	12.49	.75			.06
Area 2:					
Zone A	12.53	.50			
Zone B	13.03	.50			
Zone C	13.28	.50			
Zone D	14.03	.50			
LINE CONSTRUCTION:*					
Zone 1:					
Groundmen	11.09	1.00	3%+2.00		1/2%
Equipment Operators; Powdermen; Mechanics	13.10	1.00	3%+2.00		1/2%
Linemen; Technicians; Crane Operators	14.76	1.00	3%+2.00		1/2%
Cable Splicers	15.19	1.00	3%+2.00		1/2%
Zone 1-A:					
Groundmen	12.00	1.00	3%+2.00		1/2%
Equipment Operators; Powdermen; Mechanics	13.93	1.00	3%+2.00		1/2%
Linemen; Technicians; Crane Operators	15.65	1.00	3%+2.00		1/2%
Cable Splicers	16.17	1.00	3%+2.00		1/2%
Zone 2:					
Groundmen	12.85	1.00	3%+2.00		1/2%
Equipment Operators; Powdermen; Mechanics	14.79	1.00	3%+2.00		1/2%
Linemen; Technicians Crane Operators	16.51	1.00	3%+2.00		1/2%
Cable Splicers	16.98	1.00	3%+2.00		1/2%
MARBLE WORKERS:*					
Area 1	12.16	.65	1.10		.19
MASON TENDERS	9.80	.92	1.10		.06

*See AREA and ZONE Definitions - following Page

AREA and ZONE DEFINITIONS

IRONWORKERS:
Northern Area: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff, and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

Central and Southern Areas: All areas not included in the Northern Area

LATHERS:
Area 1: North of a line crossing the State drawn through Ajo, Randolph and Springerville; except as follows: northeast of a line drawn from Springerville to a point 4 miles northeast of Keams Canyon

Area 2: South of a line crossing the State drawn through Ajo, Randolph and Springerville:

Area A: Area within 30 mile radius of the City Hall in Tucson

Area B: Area within 30 - 40 mile radius of the City Hall in Tucson

Area C: Area within 40 - 50 mile radius of the City Hall in Tucson

Area D: Area outside of Zone C

LINE CONSTRUCTION:
Zone 1: Phoenix and Tucson 30 mile radius from center of Town

Zone 1-A: Douglas, Flagstaff, Globe, Kingman, Prescott and Yuma 10 mile radius from the center of Town

Zone 2: Other Areas

MARBLE WORKERS:
Area 1: Apache, Coconino, and Gila Counties; Graham County (west and north of San Francisco River to Gila River); Greenlee County (west and north of San Francisco River to Gila River); Maricopa, Mohave and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande with the line extending to the Maricopa/Pinal County Line); Yavapai and Yuma Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Zone A:					
Brush; Soft Floor Layers	$11.60	.90	.80		.20
Brush, steel and bridge	12.10	.90	.80		.20
Spray	12.05	.90	.80		.20
Spray, steel and bridge	12.60	.90	.80		.20
Zone B:					
Brush; Soft Floor Layers	12.35	.90	.80		.20
Brush, steel and bridge	12.85	.90	.80		.20
Spray	12.80	.90	.80		.20
Spray, steel and bridge	13.35	.90	.80		.20
Zone C:					
Brush; Soft Floor Layers	13.35	.90	.80		.20
Brush, steel and bridge	13.85	.90	.80		.20
Spray	13.80	.90	.80		.20
Spray, steel and bridge	14.35	.90	.80		.20
Zone D:					
Brush; Soft Floor Layers	13.60	.90	.80		.20
Brush, steel and bridge	14.10	.90	.80		.20
Spray	14.05	.90	.80		.20
Spray, steel and bridge	14.60	.90	.80		.20
Area 2:					
Zone A:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	11.88	.60	.50		.08
Spray	12.13	.60	.50		.08
Creosote Applier	12.21	.60	.50		.08
Swing Stage:					
Brush; Sandblaster	12.28	.60	.50		.08
Spray	12.53	.60	.50		.08
Steeplejack	12.74	.60	.50		.08
Steel and bridge, brush; Steel Sandblaster	12.81	.60	.50		.08
Steel and bridge, Spray	13.01	.60	.50		.08
Zone B:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	12.88	.60	.50		.08
Spray	13.13	.60	.50		.08
Creosote Applier	13.21	.60	.50		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2 - Zone B: (Cont'd)					
Swing Stage:					
Brush; Sandblaster	$13.28	.60	.50		.08
Spray	13.53	.60	.50		.08
Steeplejack	13.74	.60	.50		.08
Steel and bridge, Brush; Steel Sandblaster	13.81	.60	.50		.08
Steel and bridge, Spray	14.01	.60	.50		.08
Zone C:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	14.38	.60	.50		.08
Spray	14.63	.60	.50		.08
Creosote Applier	14.71	.60	.50		.08
Swing Stage:					
Brush; Sandblaster	14.78	.60	.50		.08
Spray	15.03	.60	.50		.08
Steeplejack	15.24	.60	.50		.08
Steel and bridge, Brush; Steel Sandblaster	15.31	.60	.50		.08
Steel and bridge, Spray	15.51	.60	.50		.08
Area 3:					
Zone A:					
Brush	10.29	.77	.45		.08
Spray; Sandblasters	10.79	.77	.45		.08
Paperhangers	10.43	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	10.59	.77	.45		.08
Spray	11.09	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	11.04	.77	.45		.08
Spray	11.54	.77	.45		.08
Structural Steel and Tanks:					
Brush	11.29	.77	.45		.08
Spray and Sandblasters	11.79	.77	.45		.08
Zone B:					
Brush	11.04	.77	.45		.08
Spray and Sandblasters	11.54	.77	.45		.08
Paperhangers	11.18	.77	.45		.08
Swing Stage, under 40 ft:					
Brush	11.34	.77	.45		.08
Spray	11.84	.77	.45		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 3 - Zone B: (Cont'd)					
Swing Stage, over 40 ft.:					
Brush	$11.79	.77	.45		.08
Spray	12.29	.77	.45		.08
Structural Steel and Tanks:					
Brush	12.04	.77	.45		.08
Spray and Sandblasters	12.54	.77	.45		.08
Zone C:					
Brush	11.79	.77	.45		.08
Spray	12.29	.77	.45		.08
Paperhangers	11.93	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	12.09	.77	.45		.08
Sray	12.59	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	12.54	.77	.45		.08
Spray	13.04	.77	.45		.08
Structural Steel and Tanks:					
Brush	12.79	.77	.45		.08
Spray and Sandblasters	13.29	.77	.45		.08
Zone D:					
Brush	12.29	.77	.45		.08
Spray	12.79	.77	.45		.08
Paperhangers	12.43	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	12.59	.77	.45		.08
Spray	13.09	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	13.04	.77	.45		.08
Spray	13.54	.77	.45		.08
Structural Steel and Tanks:					
Brush	13.29	.77	.45		.08
Spray and Sandblasters	13.79	.77	.45		.08
*See AREA and ZONE Definitions - following Page					

AREA and ZONE DEFINITIONS

PAINTERS:

Area 1: Apache County (north of Woodruff/Camp Wood Line); Coconino County (north of Woodruff/Camp Wood Line); Mohave County (north of a line following the Geodetic Hualapai Boundary Line to the Colorado River, a distance of 23 miles east of Pierce Ferry and then intersecting the Arizona/Nevada State Line); Navajo County (north of Woodruff/Camp Wood Line); Yavapai County (north of Woodruff/Camp Wood Line):

- Zone A: 0-20 road miles from Courthouse in Flagstaff
- Zone B: 20-35 road miles from Courthouse in Flagstaff
- Zone C: 35-80 road miles from Courthouse in Flagstaff
- Zone D: 80 road miles and over from Courthouse in Flagstaff

Area 2: Apache County (south of the Woodruff/Camp Wood Line); Coconino County (south of Woodruff/Camp Wood Line); Gila County; Graham County (north of 33rd Parallel); Greenlee County (north of 33rd Parallel); Maricopa County (north of 33rd Parallel); Mohave County (south of a line following the Geodetic Hualapai Boundary Line to the Colorado River, a distance of 23 miles east of Pierce Ferry and then intersecting the Arizona/Nevada State Line); Navajo County (south of Woodruff/Camp Wood Line); Pinal County (north of 33rd Parallel); Yavapai County (south of Woodruff/Camp Wood Line):

- Zone A: 0-40 paved road miles from Courthouse in Phoenix; also, Luke and Williams Air Force Bases
- Zone B: 41-60 paved road miles from Courthouse in Phoenix
- Zone C: 61 paved road miles and over from Courthouse in Phoenix

Area 3: Cochise County; Graham County (south of 33rd Parallel); Greenlee County (south of 33rd Parallel); Maricopa County (south of 33rd Parallel); Pima County; Pinal County (south of 33rd Parallel); Santa Cruz and Yuma Counties:

- Zone A: 0-30 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
- Zone B: 31-40 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
- Zone C: 41-50 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
- Zone D: 51 paved road miles and over from Stone and Congress in Tucson or from the County Courthouse in Yuma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1:					
Zone A	$ 11.77	.95	$1.30		.06
Zone B	12.52	.95	1.30		.06
Zone C	13.645	.95	1.30		.06
Area 2:					
Zone A	8.57	.35	.60		
Zone B	9.07	.35	.60		
Zone C	8.32	.35	.60		
Zone D	10.07	.35	.60		
PLASTERER TENDERS	10.30	.92	1.10		.10
PLUMBERS:*					
Zone 1	14.24	.75	1.35		.13
Zone 2	14.64	.75	1.35		.13
Zone 3	15.09	.75	1.35		.13
Zone 4	16.59	.75	1.35		.13
ROOFERS:*					
Area 1	11.66	1.095	.45		.05
Area 2:					
Zone A:					
Roofers & Waterproofers; Shingler (asbestos, wood and asphalt)	10.77	1.095	.20		.03
Pitch and Enamel	12.77	1.095	.20		.03
Zone B:					
Roofers & Waterproofers; Shingler (asbestos, wood and asphalt)	13.02	1.095	.20		.03
Pitch and Enamel	15.02	1.095	.20		.03
Zone C:					
Roofers & Waterproofers; Shingler (asbestos, wood and asphalt)	13.27	1.095	.20		.03
Pitch and Enamel	15.27	1.095	.20		.03

*See AREA and ZONE Definitions following Page

AREA and ZONE DEFINITIONS

PLASTERERS:

Area 1: Apache, Coconino, and Gila Counties; Graham County (north of Sentinal - Casa Grande - Safford Line); Greenlee County (north of Sentinel - Casa Grande - Safford Line); Maricopa County (north of Sentinel - Casa Grande - Safford Line); Mohave and Navajo Counties; Pinal County (north of Sentinel - Casa Grande - Safford Line); Yavapai and Yuma Counties:

Zone A: 0-35 miles from Phoenix
Zone B: 35-60 miles from Phoenix
Zone C: 60 miles and over from Phoenix

Area 2: Cochise County; Graham County (south of Sentinel - Casa Grande - Safford Line); Greenlee County (south of Sentinel - Casa Grande - Safford Line); Maricopa County (south of Sentinel - Casa Grande - Safford Line); Pima County; Pinal County (south of Sentinel - Casa Grande - Safford Line); Santa Cruz County:

Zone A: 0-30 miles radius from Tucson
Zone B: 30-40 miles radius from Tucson
Zone C: 40-50 miles radius from Tucson
Zone D: 50 miles radius and over from Tucson

PLUMBERS:

Zone 1: Area within 15 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson or the Main Post Office Building in either Douglas, Flagstaff or Yuma; Also, all areas within the City limits of Havasu City, Holbrook, Kingman, Prescott and Winslow; Also, that area bordered by the Apache Trail on the north, Higley Road on the east, Elliott Road on the south and Arizona Avenue on the west

Zone 2: Over 15 and up to 30 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson

Zone 3: Over 30 and up to 40 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson

Zone 4: Over 40 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson

AREA and ZONE DEFINITIONS (Cont'd)

ROOFERS:

Area 1: Apache, Coconino, Gila, Maricopa, Mohave, Navajo, Pinal, Yavapai and Yuma Counties

Area 2: Cochise, Graham, Greenlee, Pima and Santa Cruz Counties:

Zone A: Area less than 44 road miles from City Hall in Tucson

Zone B: Area from 44 to 100 road miles from City Hall in Tucson

Zone C: Area over 100 road miles from City Hall in Tcuson

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
SHEET METAL WORKERS:*					
Area 1:					
Zone 1	$13.865	$1.00	$1.515		.12
Zone 2	14.515	1.00	1.515		.12
Zone 3	16.365	1.00	1.515		.12
Area 2:					
Zone A	11.42	3%+1.14	1.92		.02
Zone B	12.37	3%+1.14	1.92		.02
Zone C	13.92	3%+1.14	1.92		.02
SOFT FLOOR LAYERS	10.87	.69	.12		.12
SPRINKLER FITTERS	14.48	.75	1.05		.08
TERRAZZO WORKERS; TILE SETTERS:*	12.16	.65	1.10		.19

*See AREA and ZONE Definitions following Page

FOOTNOTE

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through G

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

AREA and ZONE DEFINITIONS

SHEET METAL WORKERS:
Area 1: Apache, Coconino, and Gila Counties; Graham County (north of 33rd Parallel); Greenlee County (north of 33rd Parallel); Maricopa, Mohave, and Navajo Counties; Pinal County (north of 33rd Parallel); Yavapai and Yuma Counties:

Zone 1: 0-25 miles radius, excluding Luke and Williams Air Force Bases, from the following base points: the intersection of 56th Street and Indian School Road in Phoenix, and the City Hall in Flagstaff, Kingman, Prescott and Yuma

Zone 2: 25-50 miles radius from the base points listed in Zone 1; also Luke and Williams Air Force Bases

Zone 3: 50 miles radius and over from the base points listed in Zone 1

Area 2: Cochise County; Graham County (south of 33rd Parallel); Greenlee County (south of 33rd Parallel); Pima County; Pinal County (south of 33rd Parallel); Santa Cruz County:

Zone A: 0-22 miles radius from Tucson City Hall or Douglas City Hall

Zone B: 22-45 miles radius from Tucson City Hall or Douglas City Hall

Zone C: Over 45 miles radius from Tucson City Hall or Douglas City Hall; also San Manuel and vicinity

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Apache, Coconino, and Gila Counties; Graham County (west and north of San Francisco River to Gila River), Greenlee County (west and north of San Francisco River to Gila River); Maricopa, Mohave and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Yavapai and Yuma Counties

LABORERS:*	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	N Area	C and S Area				
Group 1	$10.935	$9.06	.92	$1.10		.10
Group 2	11.075	9.20	.92	1.10		.10
Group 3	11.225	9.35	.92	1.10		.10
Group 4	11.345	9.47	.92	1.10		.10
Group 5	11.525	9.65	.92	1.10		.10
Group 6	11.93	10.055	.92	1.10		.10
Group 7	12.62	10.745	.92	1.10		.10
(Tunnel and Shaft Work)						
Group 1	11.20	9.325	.92	1.10		.10
Group 2	11.375	9.50	.92	1.10		.10
Group 3	11.515	9.64	.92	1.10		.10
Group 4	11.905	10.03	.92	1.10		.10
Group 5	12.10	10.225	.92	1.10		.10
Group 5-A	12.37	10.495	.92	1.10		.10

AREA DEFINITIONS:

Northern Area:
Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersectionof the Arizona/New Mexico State Line

Central and Southern Areas:
All Areas not included in the Northern Area

LABORERS

Group 1: Laborer, general or construction; Tool Dispatcher or Checker; Manually-controlled Signal Operator; Fence Builder, Guard Rail Builder - highway; Chat Box Man; Dumpman and/or Spotter; Rip Rap Stone Man; Form Strippers; Landscape Gardener and Nurseryman; Packing Rod Steel and Pans; Window Cleaners; Cesspool Diggers and Installers; Concrete Dump Man - belt, Pipe and/or Hoseman; Astro-turf Layers; Clean-up, Bull Gang and Trackman - railroad; Chipper (clearing and grubbing)

Group 2: Cement Finisher Tender; Concrete Curer (Impervious Membrane); Cutting Torch Operator; Fine Grader (highway, engineering and sewer work only); Kettleman - Tarman; Power-type Concrete Buggy

Group 3: Chuck Tender (except tunnel); Sandblaster (Pot Tender); Powderman Tender; Spikers and Wrenchers; Rip Rap Stone Pavers; Creosote Tieman; Guinea Chaser; Bander

Group 4: Operator and Tenders of pneumatic and electric tools; Cocnrete Vibrating Machines; Chain Saw Machines (on clearing and grubbing); Floor Sanders - concrete; Hydraulic Jacks and similar mechanical tools not separately herein classified; Cement Dumpers (skip-type Mixer or handling bulk cement); Pipe Caulker and/or Backup Man (pipeline); Rigger/Signalman (pipeline); Pipe Wrapper; Cribber and Shorer (except tunnel); Pneumatic Gopher

Group 5: Grade Setter (pipeline); Driller; Jackhammer and/or Pavement Breakers; Pipe Layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock Slinger; Asphalt Rakers and Ironers; Air and Water Wash-out Nozzleman; Scaler (using Bos'n's Chair or Safety Belt); Tampers (mechanical, all types); Hand-guided Trencher and similar operated equipment; Precast Manhole Erector

Group 6: Driller (Core, Diamond, Wagon or Air Track); Sandblaster (Nozzleman); Concrete Saw (hand-guided); Concrete Cutting Torch; Drill Doctor and/or Air Tool Repairman; Gunman and Mixerman (Gunite)

Group 7: Gunite Nozzleman or Rodman; Scaler (Drillers); Form Setter and/or Builder; Welders and/or Pipe Layers, installing process piping; Drillers, Joy Mustang, PR 143, 220 Gardner-Denver, Hydrasonic; Powder Man

LABORERS (Cont'd)
(Tunnel and Shaft Workers)

Group 1: Bull Gang, Muckers, Trackman; Dumpmen; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on tunnel work); Change House Man

Group 2: Nipper; Chucktender, Cabletender; Vibratorman, Jackhammer, Pneumatic Tools (except Driller)

Group 3: Grout Gunman

Group 4: Timberman, Retimberman - wood or steel blaster, Driller, Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other pneumatic concrete Placer Operator; Miner - Finisher; Miners - Tunnel (hand or machine)

Group 5: Diamond Drill

Group 5A: Shaft and Raise Miner Welder

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates N AREA	Basic Hourly Rates C and S AREA	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.535	$ 9.66	$1.10	$1.10		.08
Group 2	11.935	10.06	1.10	1.10		.08
Group 3	12.425	10.55	1.10	1.10		.08
Group 4	13.005	11.13	1.10	1.10		.08
Group 5	13.575	11.70	1.10	1.10		.08
Group 5A	13.905	12.03	1.10	1.10		.08
Group 6	14.265	12.39	1.10	1.10		.08
Group 7	14.915	13.04	1.10	1.10		.08

NORTHERN AREA:
Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

CENTRAL and SOUTHERN AREAS:
All Areas not included in the Northern Area

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor Operator; Field Equipment Servicemen Tender; Heavy-duty Repair Tender; Heavy-duty Welder Tender; Oiler; Pump Operator

Group 2: Conveyor Operator; Generator Operator - portable; Power Grizzly Operator; Self-propelled Chip Spreading Machine - Conveyor Operator; Watch Fireman; Welding Machine Operator - gasoline and diesel power

Group 3: Concrete Mixer Operator - skip-type; Driver, Motopaver, Slurry Seal machine and similar type equipment; Dinky Operator (under 20 tons wt.); Motor Crane Driver; Power Sweeper Operator, self-propelled; Ross Carrier or Forklift Operator; Skip Loader Operator, all types with rated capacity 1½ cu. yds. or less; Wheel-type Tractor Operator (Ford, Ferguson, or similar type) with attachments such as Fresno, Push Blade, Post Hole Auger, Mover, etc. excluding compacting equipment

Group 4: A-Frame Boom Truck or Winch Truck Operator; Asphalt Plant Fireman; Elevator Hoist Operator (including Tuskey Hoist or similar type); Grade Checker (excluding Civil Engineer); Multiple power Concrete Saw Operator; Pavement Breaker; Mechanical Compactor Operator, power propelled; Roller Operator, all types, except as otherwise classified; Screed Operator; Self-propelled Chip Spreading Machine Operator (including Slurry Seal Machine Operator); Stationary Pipe Wrapping and Cleaning Machine Operator; Tugger Operator

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 5: Aggregate Plant Operator (including Crushing, Screening and Sand Plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Beltcrete Operator; Boring Machine Operator; Concrete Mechanical Tamping, Spreading or Finishing Machine (including Clary, Johnson or similar types); Concrete Pump Operators; Concrete Batch Plant Operator, all types and sizes; Conductor, Brakeman or Handler; Drilling Machine; Elevating Grader Operator, all types and sizes (except as otherwise classified); Highline Cableway Signalman; Field Equipment Serviceman; Kolman Belt Loader Operator or similar with belt width 48" or over; Locomotive Engineer (including Dinky, 20 tons wt. and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and including 12 cu. yds.; Power Jumbo Form Setter Operator; Pressure Grout Machine Operator (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator, on all types asphalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator, all types rated capacity over 1½ but less than 4 cu. yds.; Slip Form Operator (power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator, single pass type; Stationary Central Generating Plant Operator, rated 300 K.W. or more; Surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator

Group 5-A: Heavy-duty Mechanic and/or Welder; Pneumatic-tired Scraper, all sizes and types over 12 cu. yds. up to and including 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching Machine Operator

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 6: Auto Grade Machine (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator, paving type, and Mobile Mixer; Concrete Pump Operator with boom attachment (truck mounted); Crane Operator, Crawler and pneumatic type, under 100 ton capacity MRC; Crawler type Tractor Operator, with boom attachment or slope bar; Derrick Operator; Forklift Operator for hoisting personnel; Grade-all Operator; Helicopter Hoist; Highline Cableway Operator (less than 20 tons rated capacity); Mass Excavator Operator (150 Bucyrus Erie and similar types); Mechanical Hoist Operator (two or more drums); Motor Grade Operator, any type power blade; Motor Grade Operator with elevating grader attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Operator, all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds., MRC); Power driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator, all types with rated capacity 4 cu. yds., but less than 8 cu. yds.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Digger Operator, attached to wheel-type Tractor; Tower Crane (or similar type) Operator; Tractor Operator (Pusher, Bulldozer, Scraper) (400 net horsepower and over); Tugger Operator (two or more); Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 7: Crane Operator, Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter Pilot, FAA qualified, when used in construction work; Highline Cableway Operator, over 20 ton rated capacity and using Traveling Head and Tail Tower; Remote-control Earth Moving Equipment Operator; Skip Loader Operator, all types with rated capacity of 8 cu. yds. or more; Universal Equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	N AREA	C and S AREA				
Group 1	$11.105	$ 9.23	.92	$1.10		.08
Group 2	11.245	9.37	.92	1.10		.08
Group 3	11.485	9.61	.92	1.10		.08
Group 4	11.865	9.99	.92	1.10		.08
Group 5	12.035	10.16	.92	1.10		.08
Group 5A	12.235	10.36	.92	1.10		.08
Group 6	12.385	10.51	.92	1.10		.08
Group 7	12.825	10.95	.92	1.10		.08
Group 8	13.38	11.505	.92	1.10		.08
Group 8A	14.085	12.21	.92	1.10		.08
Group 8B	11.715	9.84	.92	1.10		.08
Group 8C	13.755	11.88	.92	1.10		.08

NORTHERN AREA:
Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and an point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

CENTRAL and SOUTHERN AREAS:
All Areas not included in the Northern Area

TRUCK DRIVERS

Group 1: Teamsters; Pick-ups; Station Wagons; Man Haul Driver

Group 2: Dump or Flatrack (2 or 3 axle); Water Truck (under 2500 gallons); Buggymobile (1 cu. yd. or less); Bus Drivers; Self-propelled Street Sweeper

Group 3: Dump or Flatrack (4 axle); Dumptor or Dumpster (less than 7 cu. yds.); Water Truck (2500 gallons but less than 4000 gallons); Tireman

Group 4: Dumptor or Dumpster (7 cu. yds. but less than 16 cu. yds.); Dump or Flatrack (5 axle); Water Truck (4000 gallons and over); Slurry type equipment or Leverman; Vacuum Pump Truck Drivers; Flaherty Spreader or similar type equipment or Leverman; Transit Mix (8 cu. yds. or less mixer capacity); Warehouseman and/or Warehouse Clerk; Ambulance Driver

Group 5: Dump or Flatrack (6 axle); Transit Mix (over 8 cu. yds. but less than 10.5 cu. yds.); Rock Truck (i.e. Dart, Euclid and other similar type end dumps, single unit) less than 16 cu. yds.

Group 5-A: Oil Tanker or Spreader and/or Bootman, Retortman or Leverman

Group 6: Transit Mix (over 10.5 cu. yds. but less than 14 cu. yds. mixer capacity); Ross Carrier, Fork Lift or Lift Truck; Hydro Lift, Swedish Crane, Iowa 300 and similar types; Concrete Pump (when integral part of Transit Mix Truck); Dump or Flatrack (7 axle); Transport Driver (unless axle rating results in higher classification)

Group 7: Dump or Flatrack (8 axle)

Group 8: Off-highway equipment driver including but not limited to: 2 or 4 wheel power unit, i.e. Cat, DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling Water Tanks, Fuel Tanks or other applications under Teamster classifications; Rock Trucks (Dart, Euclid, or other similar end dump types) 16 cu. yds. and over; Eject-alls; Dumptor or Dumpster (16 cu. yds. and over); Dump or Flatrack (9 axle)

Group 8-A: Heavy-duty Mechanic/Welder; Body and Fender Man

Group 8-B: Field Equipment Serviceman or Fuel Truck Drivers

Group 8-C: Heavy-duty Mechanic/Welder Tender

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA80-4026 DATE: Date of Publication
Supersedes Decision No. LA80-4014, dated January 25, 1980, in 45 FR 6294
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories.

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	ZONE 1	$12.32	.525	.90		.04
	ZONE 2	11.86	.70	1.00		.03
	ZONE 3	10.90	.65	1.30		.05
	ZONE 4	11.64	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes

ZONE 3 Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS & STONEMASONS					
ZONE 1	11.55	.80	1.15		.31
ZONE 2	10.73	.53	.50		
ZONE 3	12.25	.53	.67		.05
ZONE 4	11.50	.60	.35		.035
ZONE 5	11.25				
ZONE 6	10.95	.55	.65		
ZONE 7	11.00		.30		
ZONE 8	11.70		.25		
ZONE 9	11.50				

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ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge, & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
Zone 8 Caldwell, East Carroll, Franklin, Jackson Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE 1 - Carpenters	10.65	.50			.05
Millwrights	11.37	.50			.05
Piledrivermen	11.55	.50			.05
ZONE 2 - Carpenters, Piledrivermen & soft floor layers	11.18	.60	.33		.07
Millwrights	12.88				.07
ZONE 3 - Carpenters	10.90	.70	.55		
Millwrights	11.75	.70	.55		
Piledrivermen	11.20	.70	.55		
ZONE 4 Carpenters & Piledrivermen	11.60	.50	.60		.05
Millwrights	13.825				7/10%
ZONE 5 - Carpenters & Soft floor layers	11.02	.65	.50		.04
Millwrights	11.41	.65	.50		.04
Piledrivermen	11.12	.65	.50		.04
ZONE 6 - Carpenters & Soft floor layers	10.855	.65	.50		.04
Millwrights	11.41	.65	.50		.04
Piledrivermen	11.12	.65	.50		.04
ZONE 7 - Carpenters & Soft floor layers	10.70				
Millwrights	11.45				
Piledrivermen	11.20				
ZONE 8 - Carpenters & soft floor layers	10.70	.55	.45		.04
Millwrights	11.45	.55	.45		.04
Piledrivermen	10.95	.55	.45		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - Carpenters & Soft floor layers	10.70				
Millwrights	11.45				
Piledrivermen	11.20				
ZONE 10 - Carpenters & Soft floor layers	10.75	.65	.35		.10
Millwrights	11.65	.65	.35		.10
Piledrivermen.	11.25	.65	.35		.10

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from The Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 -Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS					
ZONE 1	10.71				
ZONE 2	9.45				
ZONE 3	10.25	.50	.75		.05
ZONE 4	11.045	.45	.40		.04
ZONE 5	10.35				
ZONE 6	8.50				
ZONE 7	10.20	.40			
ZONE 8	10.42		.25		
ZONE 9	9.75		.30		

ZONE 1- Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Pars
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3- Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincloln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE 1 - Electricians	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
ZONE 2 - Electricians	11.95	.45	3%		.02
Cable splicers	12.45	.45	3%		.02
ZONE 3 - Electricians	14.75	.55	3%+.40		1/10%
Cable splicers	15.00	.55	3%+.40		1/10%
ZONE 4 - Electricians	13.35	.70	3%		2/10%
Cable splicers	13.60	.70	3%		2/10%
ZONE 5 - Electricians	13.20	.45	3%+.40		.05
Cable splicers	13.20	.45	3%+.40		.05
ZONE 6 - Electricians	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
ZONE 7 - Electricians	13.25	1.75	3%		1%
Cable splicers	13.75	1.75	3%		1%
ZONE 8 - Electricians	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayettte, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville,Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	10.575	.745	.56	4%+a+b	.025
Helpers	70%JR	.745	.56	4%+a+b	.025
ZONE 2 - Mechanics	11.66	1.195	.82	4%+a+b	.035
Helpers	70%JR	1.195	.82	4%+a+b	.035

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs.- 4% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia,, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary,St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	11.65				.02
ZONE 2	8.15				.01
ZONE 3	10.825	.17	.30		.01
ZONE 4	9.88		.30		.04
ZONE 5	6.80				
ZONE 6	10.99				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy.51), Vermilion, West Baton Rouge & West Feliciana Pars.

ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes

ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes

ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS					
ZONE 1	11.66	.63	.35		.04
ZONE 2	12.54	.60	.75		.04
ZONE 3	12.10	.45	.90		.06
ZONE 4	12.40	.60	1.15		.06
ZONE 5	10.70	.45	.85		.04
ZONE 6	11.78	.45	.65		.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)

ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars., Parts of Acadia, Evangeline, Lafayette, St.Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Cottonport to the Rapides Par. Line, then west along the southern border of Rapides Par.)

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & Adjacent Areas) Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. Line)

ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)

ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1- Group 1	7.20	.30			
Group 2	7.40	.30			
Group 3	7.45	.30			
ZONE 2 - Group 1	7.10	.25	.27		.05
Group 2	7.30	.25	.27		.05
ZONE 3 - Group 1	8.63	.25	.27		.05
Group 2	8.73	.25	.27		.05
Group 3	8.78	.25	.27		.05
Group 4	9.59	.25	.27		.05
Group 5	9.15	.25	.27		.05
Group 6	8.99	.25	.27		.05
Group 7	8.68	.25	.27		.05
Group 8	8.88	.25	.27		.05
ZONE 4 - Group 1	7.22	.25	.27		.05
Group 2	7.32	.25	.27		.05
Group 3	7.37	.25	.27		.05
ZONE 5 - Group 1	6.82	.25	.27		.05
Group 2	6.92	.25	.27		.05
Group 3	6.97	.25	.27		.05
ZONE 6 - Group 1	8.40	.25	.27		.05
Group 2	8.50	.25	.27		.05
Group 3	8.65	.25	.27		.05
Group 4	8.56	.25	.27		.05
Group 5	8.66	.25	.27		.05
ZONE 7 - Group 1	8.075	.25	.27		.05
Group 2	8.225	.25	.27		.05
Group 3	8.275	.25	.27		.05
ZONE 8 - Group 1	6.64	.25	.27		.05
Group 2	6.84	.25	.27		.05
Group 3	6.89	.25	.27		.05
Group 4	6.94	.25	.27		.05
Group 5	7.29	.25	.27		.05
ZONE 9 - Group 1	7.28	.25	.27		.05
Group 2	7.38	.25	.27		.05
Group 3	7.43	.25	.27		.05
Group 4	7.48	.25	.27		.05
ZONE 10 - Group 1	7.03	.25	.27		.05
Group 2	7.13	.25	.27		.05
Group 3	7.28	.25	.27		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction

GROUP 2 - Stone mason tenders, mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman

GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

LABORERS - ZONE 3

GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners

GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipped

GROUP 3 - Mortar mixers

GROUP 4 - Blasterers

GROUP 5 - Blaster tenders; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker

GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete

GROUP 7 - Interior of closed tanks & vessels manually

GROUP 8 - Jackhammer operators

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders

GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc); pipelayers (non-metallic)

GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Laborers

GROUP 2 - Laborers handling steel pans, stone masons tenders, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

GROUP 4 - Bricklayers tenders and mason tenders

GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS ZONE 7

GROUP 1 - Common laborers

GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons tenders, vibratormen

GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone masons tenders; concrete workers; scaffold builders

GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders(cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders
GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Laborers
GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 -Air jack op., vibrator ops.; sewer pipelayers, sewer pipe wrappers
LABORERS - ZONE 10
GROUP 1- Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers, stripping & dismantling; concrete form work; loading, unloading,carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters finisher
GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U. S. Hwy 61 (Airline Hwy) then west on U. S. 61 to Blind River & on a direct line to Manchac)
ZONE 5 -Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. Line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$10.68	.55	.40		.05
ZONE 2	10.83	.55	.40		.05
ZONE 3	11.08	.55	.40		.05
ZONE 4	11.43	.55	.40		.05
ZONE 5	11.85				.01
ZONE 6	11.00				.01
ZONE 7	13.485	.55			.01
ZONE 8	12.40				
ZONE 9	9.40				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans
ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are within a 22.5 mile radius of New Orleans center.
ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahoa Pars. which are within a 32.5 mile radius of New Orleans center
ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lutcher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Pars. outside 32.5 mile radius New Orleans Center

ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Hymel, Convent & Lutcher), St. Martin (only lower separted section), St. Mary (only Morgan City), Tangipahoa(north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Pontchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Parishes
ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberia, Iberville (eastward to lower Grand River), Lafayette,St. Landry, St. Martin (excluding lower separted section), St. Mary (east to Berwick) & Vermilion Pars.
ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.
ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - GROUP 1	13.20	.45	3%+.40		.05
GROUP 2	75%JR	.45	3%+.40		.05
GROUP 3	65%JR	.45	3%+.40		.05
GROUP 4	45%JR	.45	3%+.40		.05
GROUP 5	50%JR	.45	3%+.40		.05

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)
GROUP 4 - Op. using truck without winch
GROUP 5 - Groundmen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
Linemen, line equipment & line truck ops.	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
ZONE 3 -Linemen, equipment ops.	14.75	.55	3%+.40		1/10%
Cable splicers	15.00	.55	3%+.40		1/10%
Groundmen	12.75	.55	3%+.40		1/10%
ZONE 4 - Linemen,equip. ops.	13.35	.70	3%		
Cable splicers	13.60	.70	3%		
Groundmen	50%JR	.70	3%		
ZONE 5 - Linemen & equip., ops.	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%
Groundmen	60%JR		3%		1/2%
ZONE 6 - Linemen & equip., ops.	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
Groundman	4.17	.85	3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - Linemen; Operators	13.25	1.75	3%		1%
Cable splicer	13.75	1.75	3%		1%
Groundmen	11.25	1.75	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern Segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	$11.50	.60	.35		.035
Tile & terrazzo workers	10.65	.40		.20	
Marble, tile & terrazzo finishers	7.90	.40		,20	
ZONE 2 - Marble & terrazzo workers	12.25	.53	.67		.05
Tile setters	9.05	.48	.67		.02
ZONE 3 - Marble setters	11.50				
Terrazzo workers	9.25				
ZONE 4 - Marble, tile & terrazzo workers	10.67		.25		
ZONE 5 - Marble, tile & terrazzo workers	9.80	.55			
ZONE 6 - Marble, tile & terrazzo workers	14.25				
Marble, tile & terrazzo finisher	7.90	.40		.20	
ZONE 7 - Tile setters	11.25				
Tile finishers	7.90	.40		.20	

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5- Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	$11.715		.30		
GROUP 2	11.915		.30		
GROUP 3	12.06		.30		
GROUP 4	13.505		.30		
ZONE 2 - GROUP 1	9.85		.25		.05
GROUP 2	10.92		.25		.05
ZONE 3 - GROUP 1	9.845	.625	.60		.08
GROUP 2	10.22	.625	.60		.08
GROUP 3	11.095	.625	.60		.08
ZONE 4 - GROUP 1	10.99				
GROUP 2	11.43				
GROUP 3	11.12				
GROUP 4	12.25				
GROUP 5	12.59				
GROUP 6	11.09				
GROUP 7	11.33				
ZONE 5 - GROUP 1	9.60				
GROUP 2	10.10				
GROUP 3	10.60				
ZONE 6 - Painters, tape & float, vinyl & paperhangers	10.25	.40	.30		.05
ZONE 7 - GROUP 1	7.80				
GROUP 2	8.30				
GROUP 3	8.80				
ZONE 8 - GROUP 1	9.05		.25		.05
GROUP 2	9.42		.25		.05

ZONE 1 - GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machine
GROUP 4 - Water towers, radio & TV towers
ZONES 2&8 GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks sprinkler systems, wharves & structrual steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers
ZONE 5 - GROUP 1 Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack sign, tank painting, steeple jack
GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (north of Hwy.22), Assumption (north of Hwy.22), East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy.22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22) Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield excluding Winfield) Parishes

ZONE 8 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS -	ZONE 1	10.70				
	ZONE 2	10.00				.01
	ZONE 3	10.07				
	ZONE 4	11.60				.01
	ZONE 5	10.08	.60	.35		.08
	ZONE 6	8.00				.01
	ZONE 7	9.75			1.00	
	ZONE 8	11.70		.25		
	ZONE 9	11.00		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS					
ZONE 1	12.65	.60	1.00		.10
ZONE 2	11.95	.78	.875		.07
ZONE 3	11.65	.85	.80		.10
ZONE 4	11.87	.70	1.10	1.00	.09
ZONE 5	13.73	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars.
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of Eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.
ZONE 3- Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln , Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS						
ZONE 1 -	GROUP 1	8.44	.65	.88		.05
	GROUP 2	9.13	.65	.88		.05
	GROUP 3	9.22	.65	.88		.05
	GROUP 4	9.54	.65	.88		.05
	GROUP 5	11.02	.65	.88		.05
ZONES 2,3&4 -	GROUP 1	8.40	.65	.86		.05
	GROUP 2	9.25	.65	.86		.05
	GROUP 3	9.33	.65	.86		.05
	GROUP 4	9.73	.65	.86		.05
	GROUP 5	11.52	.65	.86		.05

DECISION NO. LA80-4026 Power Equipment Ops.(Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 - GROUP 1	8.56	.65	1.00		.05
GROUP 2	8.24	.65	1.00		.05
GROUP 3	8.03	.65	1.00		.05
GROUP 4	8.84	.65	1.00		.05
GROUP 5	11.23	.65	1.00		.05
GROUP 6	9.25	.65	1.00		.05
GROUP 7	9.93	.65	1.00		.05
ZONE 6 - GROUP 1	8.41	.65	1.00		.05
GROUP 2	7.52	.65	1.00		.05
GROUP 3	8.08	.65	1.00		.05
GROUP 4	8.89	.65	1.00		.05
GROUP 5	10.18	.65	1.00		.05
GROUP 6	11.41	.65	1.00		.05
GROUP 7	11.66	.65	1.00		.05
GROUP 8	11.91	.65	1.00		.05
GROUP 9	12.16	.65	1.00		.05
ZONE 7 - GROUP 1	10.88	.65	1.00		.05
GROUP 2	11.13	.65	1.00		.05
GROUP 3	7.90	.65	1.00		.05
GROUP 4	8.29	.65	1.00		.05
GROUP 5	9.20	.65	1.00		.05
GROUP 6	10.63	.65	1.00		.05

POWER EQUIPMENT OPERATORS - ZONES 1,2,3&4 CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings), hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE - 5

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pump crete-6" & over discharge; push cat; road pavers; rollers(plant mix asphalt); scrapers; shovels; sidebooms; unit Op.; welder, journeyman; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grasscutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bullfoats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Oiler

GROUP 3 - Batch plant operator

GROUP 4 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16s; Oiler driver; pump crete; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 5 - A-frame truck; crew boat op.; fireman; fork lift; straddle buggy; traxcavator; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 6 - Backhoe; cableway; concrete mixer, 16s & up; derrick; crane; dragline; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cats; bulldozer; motor patrol; scraper; hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crete)

GROUP 7 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over
GROUP 8 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over
GROUP 9 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic
GROUP 2 - Master mechanic
GROUP 3 - Oilers
GROUP 4 - Batch plant op.; Oilers (drivers)
GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors, asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bullfloats, concrete joining machines; concrete mixers, 16s & under; concrete spreader; crushers; deck winch (1); distributors, asphalt "Ditch Witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractors; pump, pump crete; rollers, except on brick & asphalt; rubber tired front end loaders (with or without blade attachemts) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track machines & equivalent machines; tractors or bulldozers smaller than D-6
GROUP 6- A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-ho & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrols; piledriver; rollers on brick & asphalt; rubber tired front end loader with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit op.; welder, journeymen; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations
ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes
ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Pars. border)
ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Par; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southern-most point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	11.13		.20		
ZONE 2					
Roofers	8.86	.75	.85	.28	.70
ZONE 3					
Roofers	9.51	.60	.65		.04
Roofer helpers does not use the tools of the trade in removing & disposing of old roofing, stocking & unloading material, hauling materials to the journeymen & sweeping	5.94	.60	.65		.04
ZONE 4 - Roofers	9.30		.30		
Kettlemen	8.05		.30		
ZONE 5 - Roofers	9.60		.20		.04
Kettlemen	6.65		.20		.04

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5- Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1	12.25	.52	.55		.14
ZONE 2	11.35	3%+.65	1.11		.14
ZONE 3	12.97	.55	.80		.16
ZONE 4	11.19	3%+.59	.40		.19

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	12.80	.80	1.20		.08
TRUCK DRIVERS					
ZONE 1 - GROUP 1	9.31				
GROUP 2	9.79				
GROUP 3	10.02				
GROUP 4	9.81				
GROUP 5	9.91				
GROUP 6	9.83				
GROUP 7	10.25				

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Truck Drivers (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ZONE 2 - GROUP 1	7.20				
GROUP 2	7.45				
GROUP 3	8.00				
GROUP 4	7.85				
GROUP 5	8.30				
GROUP 6	8.40				
GROUP 7	8.70				
GROUP 8	8.85				
ZONE 3 - GROUP 1	7.97				
GROUP 2	8.05				
GROUP 3	8.30				
GROUP 4	8.45				
GROUP 5	8.60				
GROUP 6	8.80				
GROUP 7	9.15				
ZONE 4 - GROUP 1	8.00				
GROUP 2	8.30				
GROUP 3	8.45				
GROUP 4	8.65				
GROUP 5	8.80				
GROUP 6	8.60				
ZONE 5 - GROUP 1	8.64	.45			
GROUP 2	9.25	.45			
GROUP 3	9.30	.45			
GROUP 4	9.56	.45			

TRUCK DRIVERS

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds.

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 tons, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 5 - GROUP 1 - Truck drivers, up to but not including 1½ tons
GROUP 2 - Truck drivers, 1½ tons up to but not including 3 tons
GROUP 3 - Truck drivers, 3 tons up to but not including 5 tons
GROUP 4 - Truck drivers, 5 tons & over, including euclids, winch truck, dempsey dumpsters, lowboys, semitrailers, fork lifts, etc.

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana

PARISHES: Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles

DECISION NO.: LA80-4027

DATE: Date of Publication

Supersedes Decision No. LA80-4014, dated January 25, 1980, in 45 FR 6294.

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects & airports in Bossier, Caddo, Calcasieu, Jefferson & Orleans Parishes)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS & STONEMASONS					
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes	$12.25	.53	.67		.05
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	11.50	.60	.35		.035
ZONE 3 - Bossier & Caddo Parishes	10.95	.55	.65		
CARPENTERS & PILEDRIVERMEN					
ZONE 1 - Bossier & Caddo Parishes	10.96				
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	11.96				
ZONE 3 - Calcasieu Parish	11.375				
ZONE 4 - Cameron & Jefferson Davis Parishes	9.85				
ZONE 5 - Allen & Beauregard Parishes	9.30				
CEMENT MASONS					
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	10.10	.45	.40		
ZONE 2 - Bossier & Caddo Parishes	9.95	.35			
ZONE 3 - Calcasieu Parish	10.30				
ZONE 4 - Cameron & Jefferson Davis Parishes	9.80				
ZONE 5 - Allen & Beauregard Parishes	9.30				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes:					
Electricians	$14.75	.55	3%+.40		1/10%
Cable Splicers	15.00	.55	3%+.40		1/10%
ZONE 2 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
Electricians	13.20	.45	3%+.40		.05
Cable Splicers	13.20	.45	3%+.40		.05
ZONE 3 - Bossier & Caddo Parishes:					
Electricians	13.25	1.75	3%		1%
Cable Splicers	13.75	1.75	3%		1%
IRONWORKERS					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes	12.12				
ZONE 2 - Calcasieu Parish	11.70				
ZONE 3 - Bossier & Caddo Parishes	11.56				
ZONE 4 - Cameron & Jefferson Davis Parishes	9.85				
ZONE 5 - Allen & Beauregard Parishes	9.30				
LABORERS					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
GROUP 1	7.08	.25	.27		.05
GROUP 2	7.18	.25	.27		.05
GROUP 3	7.63	.25	.27		.05
GROUP 4	7.88	.25	.27		.05
ZONE 2 - Bossier & Caddo Parishes					
GROUP 1	6.38	.25	.27		.05
GROUP 2	6.48	.25	.27		.05
GROUP 3	6.93	.25	.27		.05
GROUP 4	7.18	.25	.27		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - Calcasieu Parish:					
GROUP 1	$ 7.08	.25	.27		.05
GROUP 2	7.18	.25	.27		.05
GROUP 3	7.63	.25	.27		.05
GROUP 4	7.88	.25	.27		.05
ZONE 4 - Cameron & Jefferson Davis Parishes:					
GROUP 1	6.18	.25	.27		.05
GROUP 2	6.28	.25	.27		.05
GROUP 3	6.73	.25	.27		.05
GROUP 4	6.93	.25	.27		.05
ZONE 5 - Allen & Beauregard Parishes:					
GROUP 1	5.98	.25	.27		.05
GROUP 2	6.08	.25	.27		.05
GROUP 3	6.53	.25	.27		.05
GROUP 4	6.73	.25	.27		.05

LABORERS CLASSIFICATIONS DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman; foundation driller & demolishing & dismantling man

GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer operator, jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tender, stoker, asphalt raker, concrete shovelers, power tool operator & motorized buggy operator

GROUP 3 - Formsetter, head or master-high type pavement

GROUP 4 - Powderman

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes					
GROUP 1 - Lineman	$13.20	.45	3%+.40		.05
GROUP 2 - Operator hole digging equipment; operator tractor with winch & derrick operator; operator line truck with winch & derrick working hot lines	75% JR	.45	3%+.40		.05
GROUP 3 - Operator using hole truck & trailer or pole hauling & setting truck (not in energized lines)	65% JR	.45	3%+.40		.05
GROUP 4 - Operator using truck without winch	45% JR	.45	3%+.40		.05
GROUP 5 - Groundmen	50% JR	.45	3%+.40		.05
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes:					
GROUP 1 - Linemen, equipment operators	14.75	.55	3%+.40		1/10%
GROUP 2 - Cable Splicers	15.00	.55	3%+.40		1/10%
GROUP 3 - Groundmen	12.75	.55	3%+.40		1/10%
ZONE 3 - Bossier & Caddo Parishes:					
GROUP 1 - Linemen; operators	13.25	1.75	3%		1%
GROUP 2 - Cable Splicers	13.75	1.75	3%		1%
GROUP 3 - Groundmen	11.25	1.75	3%		1%
PAINTERS					
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes:					
GROUP 1 - Brush	11.715		.30		
GROUP 2 - Spray, sandblasting, hydroblasting, spider operator, rubberizing & pyroflexing, steam jennies	12.06		.30		

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3 - Bridge work	$13.505		.30		
ZONE 2 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
GROUP 1 - Painters	9.845	.625	.60		.08
GROUP 2 - Spray, Swing stage	10.22	.625	.60		.08
GROUP 3 - Industrial	11.095	.625	.60		.08
ZONE 3 - Allen (north-eastern most corner, north of Rt. 10) Parish					
GROUP 1 Painters	9.60				
GROUP 2 Spray, stage, steeple work	10.10				
GROUP 3 - All Industrial work including sandblasting or power tools of any kind	10.60				
ZONE 4 - Bossier & Caddo Parishes	10.25	.40	.30		.05
PLUMBERS & PIPEFITTERS					
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes	12.65	.60	1.00		.10
ZONE 2 - Bossier & Caddo Parishes	11.87	.70	1.10	1.00	.09
ZONE 3 - Allen, Beauregard Calcasieu, Cameron & Jefferson Davis Parishes	13.73	.67	.72		.08
POWER EQUIPMENT OPERATORS					
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes					
GROUP 1	10.51	.65	1.00		.05
GROUP 2	10.76	.65	1.00		.05
GROUP 3	10.26	.65	1.00		.05
GROUP 4	9.01	.65	1.00		.05
GROUP 5	8.66	.65	1.00		.05
GROUP 6	7.66	.65	1.00		.05
GROUP 7	7.35	.65	1.00		.05
GROUP 8	8.71	.65	1.00		.05
GROUP 9	8.96	.65	1.00		.05
GROUP 10	7.60	.65	1.00		.05

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POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - Bossier & Caddo Parishes					
GROUP 1	9.98	.65	1.00		.05
GROUP 2	10.23	.65	1.00		.05
GROUP 3	9.73	.65	1.00		.05
GROUP 4	8.68	.65	1.00		.05
GROUP 5	8.09	.65	1.00		.05
GROUP 6	7.08	.65	1.00		.05
GROUP 7	6.74	.65	1.00		.05
GROUP 8	8.38	.65	1.00		.05
GROUP 9	8.63	.65	1.00		.05
GROUP 10	6.99	.65	1.00		.05
ZONE 3 - Calcasieu Parish					
GROUP 1	10.16	.65	1.00		.05
GROUP 2	10.41	.65	1.00		.05
GROUP 3	9.91	.65	1.00		.05
GROUP 4	8.69	.65	1.00		.05
GROUP 5	8.08	.65	1.00		.05
GROUP 6	7.08	.65	1.00		.05
GROUP 7	6.74	.65	1.00		.05
GROUP 8	8.39	.65	1.00		.05
GROUP 9	8.64	.65	1.00		.05
GROUP 10	6.99	.65	1.00		.05
ZONE 4 - Cameron & Jefferson Davis Parishes					
GROUP 1	8.20	.65	1.00		.05
GROUP 2	8.45	.65	1.00		.05
GROUP 3	7.95	.65	1.00		.05
GROUP 4	6.98	.65	1.00		.05
GROUP 5	6.46	.65	1.00		.05
GROUP 6	5.53	.65	1.00		.05
GROUP 7	5.24	.65	1.00		.05
GROUP 8	6.73	.65	1.00		.05
GROUP 9	6.98	.65	1.00		.05
GROUP 10	5.49	.65	1.00		.05
ZONE 5 - Allen & Beauregard Parishes					
GROUP 1	7.70	.65	1.00		.05
GROUP 2	7.95	.65	1.00		.05
GROUP 3	7.45	.65	1.00		.05
GROUP 4	6.48	.65	1.00		.05
GROUP 5	5.96	.65	1.00		.05

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POWER EQUIPMENT OPERATORS (ZONE 5 CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 6	5.03	.65	1.00		.05
GROUP 7	4.74	.65	1.00		.05
GROUP 8	6.23	.65	1.00		.05
GROUP 9	6.48	.65	1.00		.05
GROUP 10	4.99	.65	1.00		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over; crane with ft. boom
GROUP 2 - Crane with ft. boom
GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types, & equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring license ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd. A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd., spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type rubber tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
GROUP 6 - Batch plant operator
GROUP 7 - Oiler
GROUP 8 - Firemen
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles

DECISION NO.LA80-4027

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1 - Calcasieu Parish	12.25	.52	.55		.14
ZONE 2 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes	11.35	3%+.65	1.11		.14
ZONE 3 - Allen, Beauregard, Cameron & Jefferson Davis Parishes	12.97	.55	.80		.16
ZONE 4 - Bossier & Caddo Parishes	11.19	3%+.59	.40		.19
TRUCK DRIVERS					
ZONE 1 - Jefferson, Orleans Plaquemines, St. Bernard & St. Charles Parishes:					
GROUP 1	7.38	.45			
GROUP 2	7.51	.45			
GROUP 3	7.57	.45			
GROUP 4	7.65	.45			
GROUP 5	7.84	.45			
ZONE 2 - Bossier & Caddo Parishes:					
GROUP 1	7.56				
GROUP 2	7.66				
GROUP 3	7.89				
GROUP 4	8.10				
GROUP 5	8.52				
ZONE 3 - Calcasieu Parish:					
GROUP 1	7.99				
GROUP 2	8.12				
GROUP 3	8.18				
GROUP 4	8.25				
GROUP 5	8.44				
ZONE 4 - Allen & Beauregard Parishes					
GROUP 1	6.67				
GROUP 2	6.80				
GROUP 3	6.86				
GROUP 4	6.93				
GROUP 5	7.13				

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TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 - Cameron & Jefferson Davis Parishes:					
GROUP 1	6.77				
GROUP 2	6.90				
GROUP 3	6.96				
GROUP 4	7.03				
GROUP 5	7.22				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Michigan

COUNTIES: Berrien, Branch, Cass, Kalamazoo, St. Joseph & Van Buren

DECISION NUMBER: MI80-2047

DATE: Date of Publication

Supersedes Decision Number MI77-2041 dated March 25, 1977 in 42 FR 16355

DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$11.49				
Carpenters	8.24				
Cement Masons	10.80				
Drywall:					
Hangers	9.64				
Tapers/Finishers	10.56				
Electricians	7.97				
Laborers:					
Common	5.86				
Landscape	4.64				
Painters - Brush	6.55				
Plumbers	9.04				
Roofers	6.63				
Sheet Metal Workers	7.18				
Soft Floor Layers	9.89				
Tile Setters	9.95	.90			
Truck Drivers	7.80				
POWER EQUIPMENT OPERATORS: - - - -KALAMAZOO COUNTY - ONLY					
Backhoe Operator	8.55				
Bulldozer Operator	9.00				
Front-End-Loader	7.85				
Grader Operator	10.37				
Paver Operator	11.59	.95	1.50		.04
Roller Operator	10.57				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Calhoun
DECISION NUMBER: MI80-2046 DATE: Date of Publication
Supersedes Decision Number MI76-2107 dated August 20, 1976 in 41 FR 35381.
DESCRIPTION OF WORK: Residential Construction Projects consisting of Single Family Homes and Garden Type Apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$12.25	.85	.35		
Carpenters	7.5				
Cement Masons	10.40	.60	.50		.02
Drywall:					
Hangers	10.36				
Tapers/Finishers	12.00				
Electricians	12.91	.60	.79		.01
Laborers:					
Unskilled	5.75				
Landscape	4.85				
Plumbers & Pipefitters	9.20				
Roofers	7.16				
Sheet Metal Workers	12.54	1.00	1.33		.05
Soft Floor Layers	12.00				
POWER EQUIPMENT OPERATORS:					
Backhoe Operator	9.70				
Bulldozer Operator	9.02				
Grader Operator	10.44	.95	1.50	1.15	.05
Paver Operator	11.59	.95	1.50	1.27	.05
Roller Operator	10.44	.95	1.50	1.15	.05

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Minnesota COUNTIES: *See Below
DECISION NUMBER: MN80-2035 DATE: Date of Publication
Supersedeas Decision No.: MN79-2025 dated May 5, 1979 in 44FR 26484

DESCRIPTION OF WORK: Building Construction (Including Residential) Construction Projects

*Counties: Carlton, Cook , Itasca, Koochiching, Lake, and St. Louis

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.80	.50	.75		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons: Koochiching County	12.75	.60	.30		
Cook, Lake & Carlton Counties & all that part of St. Louis County South of line between township 54 & 55 to 2 miles north of Cotton	12.56	.50	.30		
Itasca County & the-northern half of St. Louis County	13.075	.40	.30		
CARPENTERS:					
Building Construction: Koochiching County & Cities of Ashe Lake, Crane Lake, Kebetogama & Kinmount in St. Louis County	11.55	.40			
Cook County; Cities of Alborn, Arnold, Barlett, Birch, Broockston, Canyon, Clinton, Culver, Duluth, Floodwood, Cowan, Island, Kelsey, Lakewood, Meadowlands, Munger, Palmers, Payne, Praist, ShawTaff in St. Louis County & Southern portion of Lake County					
Carpenters, Piledr vermen & Soft Floor Layers	11.45	.40	.50	.75	
Millwrights	11.67	.40	.50	.75	
Carlton County:					
Carpenters & Piledrivermen	11.60	.40	.40	.50	
Millwrights	11.74	.40	.40	.50	
Cities of Ball Club, Bass Lake, Big Fork, Blackberry Bovey, Bowstring, Calument Cohasset, Colerain, Deer River, Dora, Lake, Dunbar, Effie, Grand Rapids, Inger Marble, Marcell, Max, Pomroy, Spring Lake, Square Lake, Suomi, Talmoon Warba & Wirt in Itasca County	11.44	.40	.50	.30	

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CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cities of Allen, Aurora, Babbit, Britt, Biwabik, Buyck, Casco, Central, Lakes, Cook, Cusson, Ely, Embarrass, Eveleth, Florenton, Forbes, Gilbert Hoyt Lakes, Indington, Iron Junction, Makinen, McComber, Masaba, Mountain Iron, Ridge, Sax, Sherman Corners, Sherwood, Skibo, Soudon, Tower, Virginia, Wahlsten Winton & Zim in St. Louis & Northern portion of Lake County Carpenters, Soft Floor Layers, and Tile Setters	$11.74	.40	.50	.30	
Cities of Goodland, Keewatin, Nashwauk, Pengillu, Sawan River, Togo & Wawina in Itasca County & Cities of Bengal, Beer Lake Buhl Chrisholm, Gheen, Greaney, Hibbing, Kelly, Lake, Nett Lake, Orr Riley, Side Lake, Silica & Tovola in St. Louis County: Carpenters & Soft Floor Layers	11.94	.40		.30	
Site Preparation, Excavation & Incidental Paving: Lake, Cook, Carlton, Itasca & St. Louis Counties	8.28	.30		.30	
Koochiching County	7.32	.30			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS: Building Construction: Koochiching County: Cement Masons & Plasterers	$12.40	.60	.30		
Itasca Co. and the Northern portion of St. Louis County, North of White Face River: Cement Masons	12.25	.40			
Plasterers	12.95	.40			
Cook, Lake, Carlton Counties & the City of Duluth in St. Louis County: Cement Masons	12.645	.40			
Plasterers	12.50	.40		.45	
ELECTRICIANS: Cook, Lake, Carlton, Counties the southerly 12 townships of Itasca County including Harris, Feely, Blackberry, Spang, Goodland, Sago & Wawina & all of the southerly part of County bounded on the north by the lines of Kelsey Township extended east & west in St. Louis	12.08	4%	8%	11%	¼ of 1%
Koochiching County, Itasca County, (except that section south of a line extending east and west of the south line of Grand Rapids & Trout Lake Township), Northern part of St. Louis County bounded by the South Line of Ellsburg Township extended east and west.	11.81	4%	6%	11%	1½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
St. Louis & Lake Counties:					
Constructors	$10.31	.75	.35	8%+a	.02
GLAZIERS:					
Cook, Lake, St. Louis, Carlton, Koochiching Counties	9.60	.40	.40	b	
IRONWORKERS:	13.40	.50	.80		.02
LABORERS: BUILDING CONSTRUCTION Carlton, Cook, Lake, St. Louis Co. South of T-55-N, including the City of Duluth:					
Common Laborers	9.95	.40	.45	.50	
Mortar Mixers, Carpenters & Mason Tender, Jackhammer & Vibrator Operator	10.05	.40	.45	.50	
Itasca & Koochiching Counties and north of T-55-N, including Cities of Hibbing, Chisolm, & Buhl in St. Louis County					
Common Laborer	10.55	.35	.15		
Carpenters & Mason Tender, Mortar Mixer, Bricklayer Tender and Jackhammer	10.65	.35	.15		
Pipelayer (non-metallic)	10.90	.35	.15		
LATHERS:					
St. Louis & Lake Counties	11.20	.40			
MARBLE, TILE & TERRAZZO WORKERS:					
St. Louis Co. (City of Duluth) Marble & Tile Setter	12.33	.40	.30		
Remainder of Counties & Remainder of St. Louis County Marble Setters	12.355	.655	.53		
Tile Setters	12.30	.62	.50		
Marble Finishers	9.35	.37	.50		
Tile Finishers	11.45	.62	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, Tapers & Rollers	$10.81	.40	.40		.11
Spray, Structural Steel, Tapers & Paperhangers	11.41	.40	.40		.11
PLUMBERS & STEAMFITTERS:					
Koochiching County	13.90				
Cook & Carlton Counties & Southern half of St. Louis & Lake Counties	11.51	.40	.75	1.50	.05
Itasca County & Northern portions of St. Louis & Lake Counties	12.00	.56	.92	1.15	.05
ROOFERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County					
Roofers	12.68	.40	.35		
2nd Roofers	12.43	.40	.35		
Kettlemen	12.23	.40	.35		
Itasca & Koochiching Counties, the Northern half of St. Louis County					
1st Roofer	11.42	.52	.96		
2nd Roofer	11.09	.52	.96		
SHEET METAL WORKERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County	12.79	.40	.66		.04
Itasca and Koochiching Counties, the Northern half of St. Louis County	12.59	.52	.96		.06
TRUCK DRIVERS:					
Building Construction:					
Koochiching County	10.55				
Itasca County	10.55				

FOOTNOTES:

a. Employer contributes 4% Basic Hourly Rate for over 5 years service, 2% of Basic Hourly Rate for 6 months to 5 years service as Vacation Pay Credit. Six (60 Paid Holidays, New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. 2 weeks vacation

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MINN-10-LAB

LABORERS: Counties of Itaska and St. Louis Counties North of T-55 Site Preparation. Excavation & Incidental Paving:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$10.38	.35	.15	.25	
CLASS II	10.48	.35	.15	.25	
CLASS III	10.63	.35	.15	.25	
CLASS IV	10.68	.35	.15	.25	
CLASS V	10.73	.35	.15	.25	
CLASS VI	10.78	.35	.15	.25	
CLASS VII	10.88	.35	.15	.25	
CLASS VIII	10.98	.35	.15	.25	

CLASS I - Unskilled-Laborer, Laborers, Wrecking & Demolition; Bricklayer Tender, Drill Runner Helper, Landscape Gardner, Sod Layer & Nurseryman, Pipehandler (water, gas cast iron); Salamander Heater & Blower Tender; Carpenter Tender; Stonemasons' Tender

CLASS II - Bituminous Shoveler, Bottom Man (sewer, water or gas trench), Cement Handler (bulk or bag); Chain Saw Man, Compaction Equipment (hand Opr.,); Concrete Mixer Opr., (1 bag), Concrete Shoveler, Tamper & Puddler (paving) Concrete Vibrator, Conduit Layers (w/o wiring); Dumper (wagon, truck etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer Man & Paving Busters, Kettlemen (Bituminous or lead), Mortar Mixer, Power Buggy, Joint Drawer, Tunnel Laborer (atmospheric pressure)

CLASS III - Bituminous Tamper, Cofferdam Work, Caisson Work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater, Utility Men, Pipelayers (sewer water, gass); Leadsman (Gunnite)

CLASS VI - Nozzleman (Gunite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

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MINN-13-LAB

LABORERS Site preparation, Excavation & Incidental Koochiching County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.85	.35	.15		
CLASS 2	8.95	.35	.15		
CLASS 3	9.00	.35	.15		
CLASS 4	9.10	.35	.15		
CLASS 5	9.20	.35	.15		
CLASS 6	9.26	.35	.15		
CLASS 7	9.30	.35	.15		
CLASS 8	9.35	.35	.15		

CLASS 1 - Skilled Laborers, Bricklayers & Carpenters Tenders; Drill Runner Helper; Laborers Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater, & Blower Tender, Sod Layer & Nurseryman; Stonemasons Tender

CLASS 2 - Bituminous Shoveler, Bottom Man, (Sewer, Water or Gas Trench), Cement Coverman (Batch Trucks); Cement Handler (Bulk or Bag), Chain Saw Man, Compaction Equipment (Hand Operated), Concrete Mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete Vibrator, Conduit Layers (w/o wiring), Drill Runner (heavy, Incl. Churn Driver Dumper) (wagon truck, etc.); Jackhammerman, Joint Sawer, Kettlemen (Bituminous or Lead), Mortar Mixer; Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)

CLASS 3 - Form Setters (Municipal type curb & Sidewalk) Form Setter (pavement)

CLASS 4 - Bituminous Tamper, Caisson Work & Cofferdam

CLASS 5 - Bituminous Raker, Floater, & Utility Man; Leadman

CLASS 6 - Nozzleman (Gunite)

CLASS 7 - Pipelayer, (Sewer, Water & Gas)

CLASS 8 - Powderman, Tunnel Miner

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MINN-14-LAB

LABORERS - SITE PREPARATION EXCAVATION & INCIDENTAL PAVING Cook, Lake, Carlton & St. Louis Counties South of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS I	$ 9.78	.40	.45	.50	
CLASS II	9.88	.40	.45	.50	
CLASS III	10.03	.40	.45	.50	
CLASS IV	10.08	.40	.45	.50	
CLASS V	10.13	.40	.45	.50	
CLASS VI	10.18	.40	.45	.50	
CLASS VII	10.28	.40	.45	.50	
CLASS VIII	10.38	.40	.45	.50	

CLASS I - Unskilled Laborers, Laborers, Wrecking & Demolition; Bricklayer Tender, Drill Runner Helper, Landscape Gardner, Sod Layer & Nurseryman Pipehandler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Carpenter Tender, Stonemasons Tender

CLASS II - Bituminous Shoveler, Bottom Man, (Sewer Water or Gas Trench), Cement Handler (bulk or bag); Chain Saw Man, Compaction Equipment (Hand Operated); Concrete Mixer Operator (1 bag), Concrete Shoveler, Tamper & Puddler (paving) Concrete Vibrator, Conduit Layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk)Formsetter (pavement); Jackhammer Man & Paving Busters, Kettleman (Bituminous or Lead), Mortar Mixer; Power Buggy, Joint Drawer, Tunnel Laborer (atmospheric pressure)

CLASS III - Bituminous Tamper, Cofferdam Work, Caisson Work

CLASS IV - Drill Runner (heavy, including Churn Drill)

CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas), Leadman (Gunite)

CLASS VI - Nozzleman (Gunite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	15.70	.75	.60		.05
CLASS 2	14.05	.75	.60		.05
CLASS 3	13.80	.75	.60		.05
CLASS 4	13.20	.75	.60		.05
CLASS 5	12.85	.75	.60		.05
CLASS 6	12.75	.75	.60		.05
CLASS 7	12.50	.75	.60		.05
CLASS 8	12.38	.75	.60		.05
CLASS 9	12.30	.75	.60		.05
CLASS 10	12.03	.75	.60		.05
CLASS 11	11.15	.75	.60		.05
CLASS 12	10.70	.75	.60		.05

CLASS 1 - Helicopter Opr.,

CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib

CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib

CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib

CLASS 5 - Traveling Tower Crane

CLASS 6 - Master Mechanic; Pile Driving Opr.,

CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy and Stiffleg); Hoist Engineer (3 drums or more); Locomotive Opr., Overhead Crane Op., (Inside Building Perimeter); Tower Cranes - Stationary Tractor Opr. with Boom; All Terrain Vehicle Cranes; Fireman, Chief License

CLASS 8 - Air Compressor Opr., 375 CFM or over; Pump Op. and/or Conveyor Op., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Opr., Forklift

CLASS 9 - Boom Truck Opr., Concrete Mixer Opr., Drill Rigs- Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (one drum); Stradle Carrier Opr., Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Opr., over D2; Well Point Pump Opr.,

CLASS 10 - Concrete Batch Plant Opr., Fireman, First Class License; Gunite Opr., Tractor Opr., D-2 or similar size; Front End Loader Opr., up to 1 cu. yd.

CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr., Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu.yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr., (see Schedule 16 on Air Comp., Pumps, Conveyors. Welding Mach).

CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Opr.,

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SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

MINN-7M PEO-2-3

POWER EQUIPMENT OPERATORS: Cook, Lake, & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.99	.75	.60		.05
GROUP 2	12.66	.75	.60		.05
GROUP 3	12.25	.75	.60		.05
GROUP 4	12.12	.75	.60		.05
GROUP 5	12.03	.75	.60		.05
GROUP 6	11.05	.75	.60		.05
GROUP 7	10.45	.75	.60		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Opr., Concrete Mixer, Staionary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Opr., or Engineer, Dredge Opr., (power) & yds & over, Grader or Motor Patrol Finising Farth & Bituminous, Locomotive Crane Opr., Master Mechanic, Mixer (paving) Concrete Paving Opr., Road Mole Opr,. incl. Power Supply, Mucking Machine, incl. Mucking Operations or Similar Type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Opr., (Boom Type), Truck Crane Opr., Tugboat Opr., 100 HP & over

GROUP 4 - Dual Tractor Opr., Elevating Grader Opr., Pumpcrete Opr., Scraper Opr., Struck Capacity 32 cu. yds. & over, Self-Propelled, Traveling Soil Stabilizer

GROUP 5 - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Opr., Crushing Plant Opr., or Gravel Washing, Crushing and Screening Plant Opr., Dope Machine Opr., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader, Opr., Loader Opr., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators Pumps or Crane Oilers, Paving Breaker or Tamping Machines Opr., (power-driven - mighty might or similar type), Pick-Up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning

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POWER EQUIPMENT OPERATORS (Cont'd)

or Bending Machine Opr., Power Plant Engineer, Power Actuated Horizontal Boring Machine, over 6" Opr., Pugmill Opr., Roller, 8 Tons & Over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Opr., Tie Tamper & Hallast Machine Opr., Tractor Opr., Over D2, TD6 or similar HP with Power Take-Off, Tractor Opr., over 50 HP without Power take-off, Trenching Machine Opr., (sewer, water, gas) Turnapull Opr., (or Similar type) Well Point Installation, Dismatling or Repair Mechanic

GROUP 6 - Air Compressor Opr., 375 CFR or over, Bituminous Spreader and Bituminous Finishing Machine Opr., Concrete Dist. & Spreader Opr., Finishing Machine Longitudinal Float Opr., Joint Machine Opr., Spray, Concrete Mixer Opr., 14S and under, Concrete Opr., (Mult. Blade), Curb Machine Opr., Fine Grade Opr., Form Trench Digger, Front End Loader Opr., (up to & incl. 1 cu. yd.), Grader Opr., (Motar Patrol), Gunite Opr., Gunall, Lead Greader on Truck or Rack, Loader Opr., Power Actuated Augars and Boring Machine Opr., Power Actuated Jacks Opr., Pump Opr., Roller Opr., Self-Propelled Chip Spreader, Shouldering Machine Opr., Stump Chipper Opr., Tractor Opr., (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, Switchman, Conveyor Opr., Deckhand, Fireman, Tank Car Heater Opr., Gravel Screening Plant Opr., Greaser Leverman, Mechanic Helper, Mechanic Space Heater, Oiler, Self-Prop., Vibrator Packer Opr., Sheep Foot Roller, Tractor Opr., 50 HP or less w/o power take-off, Truck Crane Oiler

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SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

MINN-6-PEO

(JURISDICTION - NEXT PAGE)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$15.65	.75	.60		.05
GROUP 2	12.36	.75	.60		.05
GROUP 3	11.95	.75	.60		.05
GROUP 4	11.83	.75	.60		.05
GROUP 5	11.73	.75	.60		.05
GROUP 6	10.75	.75	.60		.05
GROUP 7	10.15	.75	.60		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Opr., Concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Opr., or Engineer, Dredge Opr., (power) & yds. & over, Grader or Motor Patrol Finishing Earth & Bituminous, Locomotive Crane Opr., Master Mechanic, Mixer (paving) Concrete Paving Opr., Road Mole Opr., incl. power supply, Mucking Machine, incl. Mucking Opr., Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Opr., (Boom Type), Truck Crane Opr., Tugboat Opr., 100 Hp and over

GROUP 4 - Dual Tractor Opr., Elevating Grader Opr., Pumcrete Opr., Scraper Opr., Struck Capacity 32 cu. yds. & over, Self-Propelled, Traveling Soil Stabilizer

GROUP 5 - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Opr., Crushing Plant Opr., or Gravel Washing, Crushing and Screening Plant Opr., Dope Machine Opr., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Opr., Loader Opr., over 1 cu. yds. Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welder, Multiples Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machines Opr., (power-driven - Mighty Might or similar type), Pick-Up Sweeper, 1 cu. yd. & over Hopper Capacity, Pipeline Wrapping, Cleaning

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POWER EQUIPMENT OPERATORS (Cont'd) SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING-CARLTON CO; KOOCHICHING CO., EAST OF A NORTH SOUTH LINE FROM THE CANADIAN BORDER TO PELLAND TO BIG FALLS & MINN. HWY. #6; ITASCA COUNTY EAST OF THE WESTERN RIGHT OF WAY OF MINN. HWY. #6.

or Bending Machine Op., Power Plant Engineer, Power Actuated Horizontal Boring Mach., over 6" Op., Pugmill Op., roller, 8 tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Op., Tie Tamper & Hallast Mach. Op., Tractor Op., over D2, TD6 or similar HP with power take-off, Tractor Op., over 50 HP without power take-off, Trenching Machine Op., (sewer, water, gas) Turnapull Op., (or similar type) well point installation, dismantling or repair mechanic

Group 6 - Air Compressor Op., 375 CFR or over, Bituminous Spreader and Bituminous Finishing Mach. Op., Concrete Dist. & Spreader Op., Finishing Machine Longitudinal Float Op., Joint Mach. Op., Spray., Concrete Mixer Op., 14S and under, Concrete Op., (Mult. Blade), Curb Mach. Op., Fine Grade Op., Form Trench Digger, Front End Loader Op., (up to & incl. 1 cu. yd.), Grader Op., (motar patrol), Gunite Op., Gunall, Lead Greader on Truck or Rack, Loader Op., Power Actuated Augars and Boring Mach. Op., Power Actuated Jacks Op., Pump Op., Roller Op.; Self-Propelled Chip Spreader, Shouldering Mach. Op., Stump Chipper Op., Tractor Op., (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brackeman, Switchman, Conveyor Op., Deckhand, Fireman, Tank Car Heater Op., Gravel Screening Plant Op., Greaser Leverman, Mech. Helper, Mech. Space Heater, Oiler, Self-prop. Vib. Packer Op., Sheep Foot Roller, Tractor Op. 50 HP or less w/o power take-off, Truck Crane Oiler

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MINN-7- PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Remainder of Itasca & Koochiching					
GROUP 1	$15.20	.70	.55		.05
GROUP 2	11.02	.70	.55		.05
GROUP 3	10.32	.70	.55		.05
GROUP 4	10.18	.70	.55		.05
GROUP 5	10.10	.70	.55		.05
GROUP 6	9.57	.70	.55		.05
GROUP 7	9.17	.70	.55		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Oprr., Concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Opr., or Engineer, Dredge Opr., (power) & Yds. & over, Grader or Motor Patrol Finishing Earth & Bituminous, Locomotive Crane Opr., Master Mechanic, Mixer (paving) Concrete Paving Opr., Road Mole Opr., incl. power supply, Muching Machine, incl. Mucking Operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Opr., (Boom Type), Truck Crane Opr., Tugboat Opr., 100 HP & over

GROUP 4 - Dual Tractor Opr., Elevating Grader Opr., Pumcrete Opr., Scraper Opr., Struck Capacity 32 cu. yds. & over, Self-Propelled, Traveling Soil Stabilizer

GROUP 5 - Air Track Rock Drill, Asphalt Bituminous Stabilizer Plant Opr., Crushing Plant Opr., or Gravel Washing, Crushing and Screening Plant Opr., Dope Machine Opr., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Opr., Loader Opr., over 1 cu. yds. Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or Welder, Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps or Crane Oilers, Paving Breaker or Tamping Machines Opr., (power-driven - Mighty Might or similar type), Pick-Up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline Wrapping, Cleaning

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POWER EQUIPMENT OPERATORS (Cont'd)

or Bending Machine Opr., Power Plant Engineer, Power Actuated Horizontal Boring Machine, over 6" Opr., Pugmill Opr., Roller, 8 Tons & over, Rubber Tired Farm Tractor, Backhoe Att., Sheep Foot Opr., Tie Hamper & Hallast Machine Opr., Tractor Opr,. over D2, TD6 or similar HP with power take-off, Tractor Opr., over 50 HP without Power take-off, Trenching Machine Opr., (sewer, water, gas) Turnapull Opr., (or similar type) Well Point Installation, Dismantling or Repair Mechanic

GROUP 6 - Air Compressor Opr., 375 CFR or over, Bituminous Spreader and Bituminous Finishing Machine Opr., Concrete Dist. & Spreader Opr., Finishing Machine Longitudinal Float Opr., Joint Machine Opr., Spray, Concrete Mixer Opr., 14S and under, Concrete Opr., (Mult. Blade), Curb Machine Opr., Fine Grade Opr., Form Trench Digger, Front End Loader Opr., (up to & incl. 1 cu. yd.), Grader Opr., (motar Patrol), Gunite Opr., Gunall, Lead Greader on truck or rack, Loader Opr., Power Actuated Augars and Boring Machine Opr. Power Actuated Jacks Opr., Pump Opr., Roller Opr., Self-Propelled Chip Spreader, Shouldering Machine Opr., Stump Chipper Opr., Tractor Opr., (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, Switchman, Conveyor Opr., Deckhand, Fireman, Tank Car Heater Opr., Gravel Screening Plant Opr., Greaser Leverman, Mechanic Helper, Mechanic Space Heater, Oiler, Self-Propelled, Vibrator, Packer Operator, Sheep Foot Roller, Tractor Opr., 50 HP or less w/o power Take-off, Truck Crane Oiler

DECISION No. MN80-2035

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

Cook, Lake, Carlton & St. Louis Counties

MINN-62-TD

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$10.90	.65	.65		
GROUP 2	10.45	.65	.65		
GROUP 3	10.35	.65	.65		
GROUP 4	10.15	.65	.65		

Group 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck Train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-Axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas Oil Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete, Slurry Driver

GROUP 3 - Bituminous Distributors; Bituminous Distributor(1-Man Operation); Tandem Axle

GORUP 4 - Bituminous Distributors Spray (rear-end oiler); Dumpman; Greaser & Truck Servicemen; Tank Truck Helper (Gas,Oil, Road Oil & Water) Teamster and Stableman, Tractor Operator (Wheel Type used for any purpose) Pilot Car Driver, Self-Propelled Packer; Slurry Operator; Single Axle Trucks

DECISION No. MN80-2035

TRUCK DRIVERS:
SITE PREPARTION, EXCAVATION & INCIDENTAL PAVING
ITASCA & KOOCHICHING COS.

MINN-5-TD

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$ 9.72	.65	.65		
GROUP 2	9.27	.65	.65		
GROUP 3	9.17	.65	.65		
GROUP 4	8.97	.65	.65		

GROUP 1
Driver (hauling machinery for employer's own use including operation of hand & power operated winches); Truck train Mechanic; Welder; Tractor-Trailer; Off Road Truck

GROUP 2
Tri-Axle (including 4 Axles); Dump Dry Batch Hauler; Tank Truck (gas, oil, road oil & water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver

GROUP 3 -
Bituminous Distributor Driver; Bituminous Disttributor (1 man operation); Tandem Axle

GROUP 4 -
Bituminous Distributors spray (rear-end oiler); Dumpman; Greaser & Truck Service Man; Tank Truck Helper (gas oil, road oil & water); Teamster and stableman; Tractor Operator (wheel type used for any purpose); Pilot car; Self-Propelled Packer; Slurry Operator Single Axle

STATE: TENNESSEE

COUNTIES: ANDERSON, KNOX, MONROE, & ROANE

DECISION NUMBER: TN80-1078

DATE: DATE OF PUBLICATION

Supersedes Decision Number TN78-1090, dated October 20, 1978, in 43 FR 49205.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.87	.55	.70		.06
BOILERMAKERS	11.75	1.275	1.10		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS:					
ROANE COUNTY	11.55	.55	.30		
ANDERSON, KNOX, & MONROE COUNTIES	11.67		.60		
CARPENTERS & SOFT FLOOR LAYERS	9.76	.57	.58		
CEMENT MASONS	9.57				
ELECTRICIANS:					
Anderson (Oak Ridge A.E.C. Area & Oak Ridge Townsite only) and Roane Counties:					
Wiremen	11.19	.40	3% + .60		
Cable splicers	11.69	.40	3% + .60		
Anderson (Remainder of County), Knox, and Monroe Counties:					
Wiremen & Technicians	11.41	.55	3% + .50		½ of 1%
Cable splicers	11.91	.55	3% + .50		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.26	.895	.69	a + b	.03
Helpers	6.48	.895	.69	a + b	.03
GLAZIERS	7.79	.10	.25	.13	
IRONWORKERS:					
Reinforcing	10.42	.50	.50		.02
Structural & Ornamental	10.56	.50	.50		.02
LATHERS	10.71		.20		.01
LINE CONSTRUCTION:					
Anderson (Oak Ridge A.E.C. Area & Oak Ridge Townsite only) and Roane Counties:					
Linemen & Equipment Operators	11.19	.40	3% + .60		½ of 1%
Cable splicers	11.69	.40	3% + .60		½ of 1%
Groundmen	10.11	.40	3% + .60		½ of 1%

DECISION NO. TN80-1078

LINE CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Anderson (Remainder of County), Knox, and Monroe Counties:					
Linemen, Heavy Equipment Operators, & Hole Diggers	$11.41	.55	3% + .50		½ of 1%
Truck Drivers with winch	8.90	.55	3% + .50		½ of 1%
Groundmen	8.55	.55	3% + .50		½ of 1%
Truck Drivers without winch	8.45	.55	3% + .50		½ of 1%
MILLWRIGHTS	10.55	.57	.58		
PAINTERS	8.85	.40	.45		
PILEDRIVERMEN	10.01	.57	.58		
PLASTERERS	10.90				
PLUMBERS & PIPEFITTERS:					
Knox County	11.62	.60	.70	.35	.05
Anderson, Monroe, & Roane Counties	11.92	.60	.70	.35	.05
ROOFERS	9.49		.25		
SHEET METAL WORKERS:					
Knox County	11.60	.77	.96		.08
Anderson, Monroe, & Roane Counties	12.10	.77	.96		.08
SPRINKLER FITTERS	12.80	.85	1.20		.08
TRUCK DRIVERS:					
Trucks up to 3 tons	6.22	.35	$24 p/wk.		.01
Trucks 3 to 5 tons	6.52	.35	$24 p/wk.		.01
Trucks 5 tons and over	6.77	.35	$24 p/wk.		.01
WELDERS - Rate for craft.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate of employees with 5 years or more of service, or 6% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. TN80-1078

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 6.79	.30	.33		.01
GROUP II	6.94	.30	.33		.01
GROUP III	6.97	.30	.33		.01
GROUP IV	7.09	.30	.33		.01
GROUP V	7.29	.30	.33		.01
GROUP VI	7.59	.30	.33		.01
TUNNEL CLASSIFICATIONS:					
GROUP I	6.79	.30	.33		.01
GROUP II	7.19	.30	.33		.01
GROUP III	7.34	.30	.33		.01
GROUP IV	7.49	.30	.33		.01
GROUP V	7.59	.30	.33		.01

LABORERS CLASSIFICATIONS DEFINITIONS

GROUP I - Construction laborers;
GROUP II - Form setter and stripper, pipe layer, asphalt raker, jackhammer operator, air tool operator, vibrator operator, chain saw operator, barco tamp operator, mortar mixer, plasterer tender, all power driven tool operators, hod carrier, power buggy, yarner, potman, snakeman, grademan, and flagman;
GROUP III - Acetylen burner;
GROUP IV - Wagon drill operator;
GROUP V - Powderman;
GROUP VI - Caisson hole man;

TUNNEL CLASSIFICATIONS

GROUP I - Laborers, outside;
GROUP II - Tunnel laborers;
GROUP III - Chuck tenders
GROUP IV - Nozzleman; concrete gun operator;
GROUP V - Tunnel miner.

DECISION NO. TN80-1078

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.03	.40	.40		.10
GROUP B	9.32	.40	.40		.10
GROUP C	7.77	.40	.40		.10
GROUP D	7.12	.40	.40		.10

GROUP A: Backhoes; cableways; coss carrier; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherrypickers; tower cranes; skylift; gradall.

GROUP B: Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoist, (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); tracmobile; crushing plant; elevating graders; earth augers; forklifts, (8' lift or under); paving machines (Blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); maintainers.

GROUP C: Asphalt plant; barber-green type loader; engine tender (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operator or engineers (under 30 tons); finishing machine; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1); oiler; heater (1).

STATE: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY80-5119

DATE: Date of Publication

Supersedes Decision No. WY79-5109 dated March 16, 1979, in 44 FR 6344)

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories) and Heavy Projects

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.55	$1.37		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:*					
Area 1	12.20		.30		.02
Area 2	11.90	.60	.30		.10
CARPENTERS:					
Carpenters	10.59	.70	.65	.75	.17
Piledrivermen	10.84	.70	.65	.75	.17
CEMENT MASONS:					
Cement Masons	11.15	.55			.05
Working on Swinging Stage or temporary platform over 20 ft. high	11.65	.55			.05
Composition material, epoxy	11.65	.55			.05
ELECTRICIANS:*					
Area 1:					
Electricians	11.15	.72	3%+.50		3/4of 1%
Cable Splicers	11.40	.72	3%+.50		3/4of 1%
Area 2:					
Contracts $150,000 and under:					
Electricians	10.30	.72	3%+.50		3/4of 1%
Contracts over $150,000:					
Electricians	11.70	.72	3%+.75		3/4of 1%
ELEVATOR CONSTRUCTORS	11.71	.895	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.895	.56	a	.025
IRONWORKERS:					
Structural; Ornamental; Reinforcing	12.10	.75	1.35		.10
MARBLE, TILE and TERRAZZO WORKERS:*					
Area 1	11.10	.45	.30		
MILLWRIGHTS	11.76	.90	.85		.135

*See AREA Descriptions - Page 3

PAINTERS:*	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 1:					
Brush and Roller	$12.11	.75	$1.15		.07
Spray, Swing Stage and Hazardous	12.71	.75	1.15		.07
Sandblaster (interior)	14.03	.75	1.15		.07
Paperhanger	12.71	.75	1.15		.07
Drywall Finisher	12.36	.75	1.15		.07
Finishers (machine)	12.71	.75	1.15		.07
PLUMBERS: Steamfitters:*					
Area 1:					
Zone 1	10.17	.80	.75	1.50	.18
Zone 2	11.02	.80	.75	1.50	.18
Zone 3	11.94	.80	.75	1.50	.18
Zone 4	13.16	.80	.75	1.50	.18
Zone 5: (Footnote "b"):					
General contracts $2,500,000.00 or less	10.17	.80	.75	1.50	.18
General contracts over $2,500,000.00	10.97	.80	.75	1.50	.18
Area 2:					
Zone 1	12.88	.90	1.10	2.00	.30
Zone 2	13.69	.90	1.10	2.00	.30
Zone 3	14.49	.90	1.10	2.00	.30
Zone 4	15.72	.90	1.10	2.00	.30
Zone 5	16.65	.90	1.10	2.00	.30
ROOFERS	10.28				
SHEET METAL WORKERS:*					
Area 1	10.92	.41	1.10		.02
Area 2	11.63	.53	.41		.08
SPRINKLER FITTERS	12.69	.75	1.05		.08
WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

*See AREA and ZONE Descriptions - Page 3

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 7 Paid Holidays: A through F, and the Friday after Thanksgiving Day.
b. Use only in the Cities of Laramie, Torrington, Wheatland, Evanston, Green River and Rock Spring within a 5 mile radius from the Post Office.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Goshen, Laramie and Platte Counties
Area 2: Converse, Natrona and Niobrara Counties

ELECTRICIANS:
Area 1: Goshen, Laramie, Niobrara and Platte Counties
Area 2: Converse and Natrona Counties

MARBLE, TILE and TERRAZZO WORKERS:
Area 1: Converse, Natrona and Niobrara Counties

PAINTERS:
Area 1: Converse, Natrona and Niobrara Counties

PLUMBERS; Steamfitters:
Area 1: Goshen, Laramie and Platte Counties:

Zone 1: 15 miles radius from Cheyenne Post Office
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 15 miles radius beyond Zone 2
Zone 4: Jurisdiction beyond Zone 3

Area 2: Converse, Natrona and Niobrara Counties:

Zone 1: 10 miles radius from Post Office in Casper
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 20 miles radius beyond Zone 2
Zone 4: 40 miles radius beyond Zone 4
Zone 5: Jurisdiction beyond Zone 4

SHEET METAL WORKERS:
Area 1: Converse, Natrona and Niobrara Counties
Area 2: Goshen, Laramie and Platte Counties

LABORERS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.97	.33	.40	$1.00	.05
Group 2	7.22	.33	.40	1.00	.05
Group 3	7.47	.33	.40	1.00	.05
Group 4	7.47	.33	.40	1.00	.05
Group 5	7.52	.33	.40	1.00	.05
Group 6	7.37	.33	.40	1.00	.05
Group 7	7.27	.33	.40	1.00	.05
Group 8	7.12	.33	.40	1.00	.05
Group 9	7.87	.33	.40	1.00	.05

Group 1: Axeman and Hand Faller; Concrete Worker (wet or dry) (curing and drying); Car and Truck Loader; Dumpman; Erector and Installer (includes the installation and erection of all fences, right-of-way, median fences, snow fence, etc., guard rails, section rails, reference posts, guide posts, signs and right-of-way markers); Form Stripper; Form Setter Tender (paving); General Laborer; Gunite Tender; Landscaper Tender; Material Handler (lumber, rods, cement, concrete); Nozzleman (air and water); Pipe Setter Tender, non-metallic; Pipe Setters Tenders, corrugated; All work pertaining to pre-watering, pre-irrigation and pre-wetting,; Rodman; Riprap Man; Sandblaster Pot Tender; Signalman, grade, concrete, etc.; Scissorman or Hopper Man; Stake Jumper for equipment; Tar and Asphalt Pot Tender; Wrecking and Demolition Crews; Unloading and packing of steel rods and mesh (reinforcing); Heater Tender and Pilot Car Operator

Group 2: Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Carpenter Tender; Cement Mason Tender; Chuck Tender; Form Setter (paving); Hand operated Vibrator Roller; Landscaper; Mechanical Form Cleaner; Mortar Man on Stone Riprap; Operator of pneumatic, electric, gas Tamper and similar mechanical tools; Powderman Tender; Pipe Setter, corrugated; Culvert Pipe, multiplate, sectional plate and similar type; Pipe Wrapper; Power-type Concrete Buggy (push); Power Saw Operator (clearing); Vibrator (concrete); Creosote Material Handler (corrosive enamel or its equal); Burner (Cutting Torch)

LABORERS

Group 3: Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from Bos'n Chair, Swing Stage, Lift Belt, or Block and Tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer, non-metallic; Caulker; Collarman; Jointer; Mortarman; Rigger; Jacker; Power-type Concrete Buggy (ride); Shoring and Lagging of open ditch

Group 4: Powderman and Blaster; Wagon Drill, Air Track, Diamond and other Drills for Blasting Powder or Grouting

Group 5: Hod Carriers; Mason Tender; Plasterers Tenders; Terrazzo Tenders; Tile Setter Tenders, and Scaffold Builders

Group 6: Tunnel and Underground work: Miners (drills); Machine Man; Timberman; Steelman; Drill Doctor; Form Setter and Movers; Spaders; Tuggers; Spilling and/or Caisson Workers; Jackhammer Men; Finishers; Re-bar Man; Powderman

Group 7: Nipper; Chuck Tender; Top Man or Toplander

Group 8: Brakeman and Vibrator Man

Group 9: Mucker and Bull Gang Laborer

HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 8.74	.40	.35		
CEMENT MASONS	8.50	.50			
IRONWORKERS:					
Structural	8.00				
Reinforcing	7.27	.40			
PAINTERS:					
Brush and Spray	7.06	.35			
LABORERS:					
Group 1	5.78				
Group 2	5.88				
Group 3	6.03				
Group 4	6.30				
Group 5:					
Class A	6.26				
Class B	6.10				
Class C	6.53				
Class D	6.37				

LABORERS
HEAVY CONSTRUCTION

Group 1: Axeman and Hand Faller; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erecror and Installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker); Form Stripper; General Labor; Heater Tender; Material Handler (lumber, rods, cement, concrete); Nozzleman, air and water; Pre-watering, pre-wetting and pre-irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal Men; Grade Concrete, etc.; Scissor Man or Hopper Man; Stake Jumper for equipment; Tar and Asphalt Pot Tender; Wrecking and Demolition Crews

Group 2: Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher Tender; Chuck Tender; Form Setter (paving); Hand operated Vibratory Roller; Landscaper; Mortar Man on Stone Riprap; Operator of pneumatic, electric, gas Tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type); Pipe Setter; Pipelayer (non-metallic); Pipewrapper; Power type Concrete Buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete

Group 3: Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from Bos'n Chair, Swing Stage, Lift Belt or Block and Tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker)

Group 4: Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting

Group 5: Tunnel and Underground Work:
Class A: Brakeman; Swamper; Vibrator Man
Class B: Bull Gang; Dumpman; Mucker; Trackman
Class C: Miners (Drillers); Machine Men; Timbermen; Steelmen; Drill Doctor; Form Setter and Mover; Spader; Tuggers, spilling and/or Caisson Workers; Powderman; Jackhammermen; Finishers
Class D: Nipper; Chucktender; Topman; Toplander

POWER EQUIPMENT OPERATORS: HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.75	.40	.35		
Group 2	7.80	.40	.35		
Group 3	7.85	.40	.35		
Group 4	7.89	.40	.35		
Group 5	7.92	.40	.35		
Group 6	7.97	.40	.35		
Group 7	8.01	.40	.35		
Group 8	8.03	.40	.35		
Group 9	8.14	.40	.35		
Group 10	8.20	.40	.35		
Group 11	8.22	.40	.35		
Group 12	8.40	.40	.35		
Group 13	8.44	.40	.35		
Group 14	8.51	.40	.35		
Group 15	8.57	.40	.35		
Group 16	8.74	.40	.35		
Group 17	9.08	.40	.35		

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Brakeman; Crusher Oiler; Oiler Utility; Screed Operator; Tractor Operators (farm, crawler or wheel type, 60 HSP - drawbar) or less with or without use of power attachments, except for use of Backhoe or Bucket)

Group 2: Broom Operators, self-propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor, over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator, concrete (under one yard); Roller Operators, self-propelled (pneumatic, rubber tired, Sheep Foot Vibratory or combination type); Tire Repairman

Group 4: Pump Operators (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Stacker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP - drawbar) without use of power attachments

POWER EQUIPMENT OPERATORS (Cont'd)
HEAVY CONSTRUCTION

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

Group 11: Haulage Motorman and Industrial type Motorman; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises of Plant Operator; Asphalt Plant Operator; Bituminous Laydown Machine Operator; CMI Machine or similar Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Crusher Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over 1 yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator (Tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturers' rating) up to 3½ yards, all attachments; Hydro type Cranes (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use of power attachment shall not include disking, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman; Mechanics; Machine Doctors, Welders; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer, dual drum; Cranes (Whirley, Gantry, Stiffleg, Overhead Traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all Truck mounted Cranes, manufacturer's rating) 3½ yards to 7 cu. yds.; all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturer's rating) 7 cu. yds. and over, all attachments

TRUCK DRIVERS HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pickup Truck Drivers (when used for hauling)	$ 6.22	.40			
Dump Truck drivers (water level capacity box):					
7 cu. yds. and less	6.27	.40			
Over 7 cu. yds. to and including 10 cu. yds.	6.42	.40			
Over 10 cu. yds. to and including 13 cu. yds.	6.52	.40			
Over 13 cu. yds. to and including 20 cu. yds.	7.02	.40			
Over 20 cu. yds. to and including 25 cu. yds.	7.02	.40			
Over 25 cu. yds. to and including 30 cu. yds.	7.12	.40			
Over 30 cu. yds. to and including 35 cu. yds.	7.17	.40			
Over 35 cu. yds. to and including 40 cu. yds.	7.22	.40			
Over 40 cu. yds. to and including 45 cu. yds.	7.27	.40			
Over 45 cu. yds. (to be negotiated prior to use)					
Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):					
Pilot Car Drivers	6.22	.40			
Gravel Spreader	6.27	.40			

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Flat Rack Material Truck Drivers:					
Less than 2 tons	$ 6.27	.40			
2 tons to 5 tons	6.42	.40			
Over 5 tons	6.52	.40			
Low Boy and Tandem Axle Float Drivers	7.02	.40			
Gang Truck Drivers	6.27	.40			
Stringing Truck Drivers:					
Single axle type Truck	6.27	.40			
Multiple axle type Truck, Semi	7.02	.40			
Winch Trailer Truck Drivers (Cable and Hoist)	6.52	.40			
Utility Winch Truck Drivers	6.52	.40			
"A" Frame Truck drivers	6.52	.40			
Transit Mix or Wet Mix Truck Drivers:					
Less than 5 cu. yds.; single axle	6.52	.40			
Over 5 cu. yds. to and including 10 cu. yds.; Tandem axle	6.62	.40			
Over 10 cu. yds.	6.72	.40			
Power Broom Drivers and/or Operator	6.42	.40			

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Water Truck Drivers:					
2500 gallons or less (Straight Truck)	$ 6.27	.40			
2500 gallons or less (Semi Truck)	6.42	.40			
Over 2500 gallons to and including 3600 gallons	6.52	.40			
Over 3600 gallons (Straight Truck)	6.62	.40			
Over 3600 gallons (Semi Truck)	6.72	.40			
Heavy Duty (Euclids, electric or similar type)	7.02	.40			
Fuel Service Truck Drivers	6.27	.40			
Greasemen, Tireman, Service Men	6.27	.40			
Truck Mechanics (shop and field):					
Field Mechanics	7.22	.40			

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 80-17631 Filed 6-12-80; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
June 13, 1980

Part IV

Department of Housing and Urban Development

Office of Interstate Land Sales Registration

Land Registration, Purchaser's Revocation Rights, Sales Practices and Standards, and Formal Procedures and Rules of Practice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

24 CFR Parts 1710, 1715, 1720, and 1730

[Docket No. R-80-778]

Land Registration, Purchaser's Revocation Rights, Sales Practices and Standards, and Formal Procedures and Rules of Practice

AGENCY: Office of Interstate Land Sales Registration, HUD.

ACTION: Final rule.

SUMMARY: These regulations implement amendments to the Interstate Land Sales Full Disclosure Act recently passed by Congress and signed into law by the President on December 21, 1979 [Public Law 96-153]. They represent changes in exemptions from registration requirements, consumer remedies, the relationship between states and the federal government in land sales regulation as well as some anti-fraud provisions. Proposed regulations were published in the **Federal Register** for comment on March 28, 1980.

DATES: These Regulations become effective 30 days after publication except amendments to § 1710.52 through § 1710.59 become effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: John F. Weaver, Director, Policy Development and Control Division, Department of HUD, Room 4106, Washington, D.C. 20410. Telephone: (202) 755-6314 (This is not a toll free number)

SUPPLEMENTARY INFORMATION: These Regulations serve to implement major Congressional changes in the land sales Act which are designed to exempt certain developers with smaller scale operations, improve protections and remedies available for consumers and provide for greater cooperative efforts between state and federal agencies regulating the land sales industry.

Over fifty written comments were received and evaluated by the Department prior to drafting the final Regulations. Information gathered from oral testimony in a series of three public hearings also was utilized in the decision process. Numerous changes to these Regulations originally proposed and published in the **Federal Register** on March 28, 1980, reflect the serious weight given to the public comments received.

The Department anticipates that it will publish interpretive rules to further facilitate the public's understanding of Departmental policies implementing the amended statute. These interpretations, which are expected to take the place of the current "Guidelines", are planned for publication for public comment within the next several months.

Definitions and Exemptions

A definition of "beneficial property restrictions" is added based upon the comment that the term, as used in the intrastate and Standard Metropolitan Statistical Area (SMSA) exemption provisions (§ 1710.1) is excessively vague and needed amplification.

One comment expressed concern over the definition of "good faith estimate." The commenters believed that the conference report accompanying the amended act indicates that the estimate need not be based upon information obtained at the date of signing the contract and that a developer should not be required to possess documentary evidence to support an estimate. The Department does not require that estimates be current as of the date of signing a contract but believes that it is in the best interest of purchasers and developers to have a tangible basis for an estimate available. Without such evidence, it might be very difficult for either party or the Department to prove whether, in fact, an estimate was made in "good faith."

At least one commenter had requested that full hearing rights be accorded as a vehicle for reviewing the Department's termination of statutory exemptions. HUD has no authority to terminate statutory exemptions since these exemptions are self determining and do not require approval by the Secretary. However, § 1710.4 (Exemptions—General) is modified to make it clear that developers may request an informal hearing to discuss the Department's position on the jurisdiction or non-exempt status of particular subdivisions. More importantly, any enforcement action brought by the Department against a developer for selling in violation of a statutory exemption would be in a court of record and therefore due process and procedural rights would be protected.

Suggestions were made that mobile homes be specifically identified in § 1710.5 (b) and (g). Where applicable, mobile homes would qualify for these exemptions but it is not felt specific mention of them is necessary since they are already included in the term "residential."

A number of comments and oral testimony indicated that there is confusion over which lots are counted to determine eligibility for the 100-lot exemption (§ 1710.6). Clarification has been added to show that lots in the subdivision since April 28, 1969 (the effective date of the Interstate Land Sales Full Disclosure Act) are counted except those that are exempt under § 1710.5 of these Regulations. Oral testimony and written comments also indicated that confusion prevailed concerning which lots to count to determine eligibility for the 20-acre exemption (§ 1710.9). In fact, some commenters indicated that they believed that sales in a subdivision with lots less than 20 acres in size would be exempt if all the remaining lots were replatted and sold as 20 acre (or larger) parcels subsequent to the effective date of the amendments. The statute makes it clear that *all* the lots in a subdivision must be 20 acres or more in size in order to qualify for this statutory exemption, and this concept is clarified by indicating that all the lots in the subdivision since April 28, 1969 (effective date of the Interstate Land Sales Full Disclosure Act) must be 20 or more acres in size to meet eligibility criteria. Comments dealing with the status of subdivisions operating under the former five acre lot subdivision exemption are discussed in conjunction with comments on § 1710.15.

Requests were made that the category index for exemptions found in § 1710.9 of the 1979 regulations be retained. As explained in the Summary of the March 28, 1980 proposals, some members of the public have believed that index contained all of the requirements necessary to qualify for the exemptions and have not fully complied with all requirements, resulting in voidable sales or delays in processing time. Therefore, the comment was not adopted.

Considerable comment was offered on § 1710.10 concerning the Single Family Residence Exemption. Some comments requested that a clearer distinction be drawn on subdivision criteria as opposed to lot criteria. The final rule reflects this suggestion. Other comments indicated that the requirement that internal subdivision road systems be paved with asphalt or concrete to meet exemption eligibility usurped local government authority and would arbitrarily reduce the number of subdivisions that could qualify for the exemption. In reaching the decision that the statutory eligibility requirement of paved roads could only be met by asphalt or concrete streets, the Department consulted with numerous public and private sources. The interpretation made by HUD is believed to be consistent with both Congressional

intent and a usual meaning of the word "paved." No other satisfactory definition of the word "paved" was offered in the comments. However, the Department is willing to continue to review alternatives in the event helpful suggestions are offered.

One commenter pointed out that the proposed requirement for a contract of sale for a lot exempt under § 1710.10 to include a promise that an adequate potable water supply be available is beyond the intent of the statute. The Department agrees that a requirement for a contractual assurance of an adequate water supply as an exemption eligibility requirement may not be appropriate and has deleted the provision and a similar one dealing with contractual assurances of septic tank approval.

Based upon comments received under § 1710.11 (Mobile Home Exemption), a requirement that a homesite for a mobile home conform to all local codes and standards at the time of sale is revised to a requirement that the homesite be developed in accordance with all local codes and standards. This will relieve developers of a requirement to fully complete a homesite prior to effecting a sale. Other comments questioned the proposed requirements that all common facilities be completed or fully funded, that only cash escrows or letters of credit are acceptable as bonding instruments, and that any assurance of completion be in an amount equal to 125% of the estimated costs for completing the facility. Revisions have been made to require financial assurances for only those common facilities which the developer is obligated to provide, to make surety bonds acceptable assurances, and to reduce the bonding level to 100% of the estimated cost of the facility.

One other significant comment on this exemption dealt with the proposal that only mobile homes labeled under the HUD Title VI program meet the exemption eligibility criteria. In the opinion of the commenter, used mobile homes manufactured prior to the effective date of HUD's Mobile Home Safety and Construction Standards Program also should be eligible for the exemption. The Department gave careful consideration to this viewpoint but continues to believe that the Congress did not create an exemption category which might facilitate the sale of a used mobile home that does not incorporate the consumer safety features of a home manufactured under HUD standards.

Comments received concerning the intrastate exemption found at § 1710.12 fall into the following categories: HUD should expand what it means by the terms "beneficial property restrictions" and explain how it will treat minor unintentional violations with respect to future eligibility for the exemption. In addition, the cutoff date for operating on an "intrastate" basis needs clarification and the "free and clear" concept embodied in the exemption should be expanded so that title to the lot need not be free and clear at the time of sale if purchasers are guaranteed free and clear title when escrow closes.

The Department, in consideration of these and other comments and a staff recommendation, made a number of changes in the final rule. December 21, 1979 is now included as the date from which a developer operation is measured to determine it is "intrastate in nature." This is the effective date set by Congress for this provision and should clarify a number of questions relative to the cutoff time for availability of the exemption. Additional language also was added to clarify what constitutes "beneficial property restrictions." Developers who just miss qualifying for the intrastate exemption may seek an exemption under § 1710.16 which is designed for those offerings which substantially meet statutory requirements for exemption. Language also was added to make it clear that any state approved disclosure document could be used as the Intrastate Exemption Statement required to be given to purchasers if that state document provided information required by the statute and regulations.

As a condition for the intrastate and SMSA exemptions, the statute requires that the contract describe the party responsible for providing roads, water, sewers and amenities. HUD had proposed that the contract specify whether the developer or purchaser was responsible for each item. Comments suggested that the proposal was unnecessarily limiting since third parties may have the responsibilities. However, the Department does not believe that the Congress intended that third parties be included as part of the contract and has revised the final rule to require that the contract detail the purchaser's and developer's responsibilities to provide the facilities. Under this concept, the contract can specify that it is the purchaser's responsibility to arrange for services not provided by the developer.

Section 1710.13 describing eligibility criteria for the exemption for certain subdivisions located in Standard Metropolitan Statistical Areas (SMSAs) is revised in accordance with comments that the only criteria that the entire subdivision must meet for eligibility is to contain fewer than 300 lots. The drafting of the proposed rule incorrectly stated that the subdivision must be entirely within one SMSA in order for lots to qualify for the exemption. Since the SMSA exemption includes similar provisions as the "intrastate" exemption with respect to requiring the contract of sale describe parties responsible for providing facilities, language similar to the final intrastate exemption rule is adopted here. In addition, the final rule reflects the ability of a developer to utilize a state disclosure document as the SMSA Exemption Statement if all appropriate information is included.

One commenter suggested that developers meet the statutory requirements that they submit copies of affirmations for each sale made during the year by forwarding a master affirmation containing a list of purchasers. This comment has been adopted in order to reduce the paperwork burden on both HUD and the industry.

Several written and oral comments were concerned with the limitation on the availability of the new statutory exemption (§ 1710.6) as it applies to subdivisions with fewer than 100 lots remaining to be sold. In arriving at the decision to count both sold and unsold lots in determining eligibility, HUD carefully reviewed both the statute and the Conference Report and believes the final rule to be consistent with the intent of the Congress. However, the Department has provided that subdivisions that formerly qualified for certain statutory exemptions can continue to be exempted under specific conditions. Therefore, the final rule reflects the creation of an additional exemption at § 1710.15 for subdivisions containing fewer than 100 lots remaining to be sold when all the sold and unsold lots are five or more acres in size. Another comment suggested that the requirement to deliver a deed within 120 days after the sale as a condition of exemption was inconsistent with other exemptions created by Congress which permit a 180 day period for delivery of the deed. In the interest of consistency, the Department adopted the comment, and a 180 day period is reflected in the final rule.

A staff review of the provisions of § 1710.16 revealed that the proposal inadvertently deleted the fee requirement common to requests for advisory opinions (§ 1710.17) and other exemptions requiring the Department's review and determination. Therefore, the final rule adds a $250 filing fee requirement for requests for exemption under § 1710.16 to achieve consistency.

Section 1710.18 (No-Action Letter) is revised to reflect a comment suggesting

that the wording be revised to make it clear that a no-action letter would not be issued after a sale has been made.

It was recommended that the "builder's exemption" in § 1710.13(c)(3) of the 1979 regulations be retained. This exemption was not retained since it would not serve to increase the availability of exemptions for any home builders. Under these amended regulations, provided the other sales are exempt under § 1710.5, the home builder would be able to sell up to 99 unimproved lots in accordance with § 1710.6.

Registration and Disclosure

Comments were made that the proposed § 1710.102(n), dealing with developer-obligated improvements, was not clear on a number of matters and that it might be overlooked entirely. This Section has been rewritten and redesignated as § 1710.103 so that it stands alone. In addition, since some of its proposed provisions apply to several areas of the regulations, part of the substance has been transferred to § 1715.15(f), with appropriate references. The new § 1710.103 now deals with the information to be included in the Property Report portion with respect to improvements.

Because of numerous written comments and oral presentation at the hearings objecting to HUD's definition of "Applicable State Law" in both the Exemption and Disclosure areas, the affected Sections have been rewritten. Rather than have HUD predetermine the applicable State law, it will be the responsibility of the developer to determine the jurisdictional law which applies to a particular transaction and to use the longest revocation period granted by that law on the Cover Page and in the contract for that sale.

The proposed change to § 1710.109(e)(3) has been deleted and instead § 1710.105 has been expanded to provide that if a deed is not delivered within 180 days of the signing of the contract or if the contract does not contain the provisions as to a recordable lot description, notice of default and limitation on damages set forth in Section 1404(d) of the Act, the Cover Page of the Property Report will reflect a two year revocation right. Since "actual damages" must be determined on a case by case basis, it will not be acceptable for the contract to contain a specific amount or percentage figure as to the amount which will be retained as damages other than the 15% specified in the Act (see § 1715.4).

There were also comments concerning the requirement in § 1710.209(f)(3) that the revocation language also appear in promissory notes. The concern expressed was that this inclusion appeared to create a second recision period when the note was executed at a date after the signing of the contract. It has never been the purpose of this inclusion to create a second revocation right. In order to clarify this position, the wording has been changed to indicate "the" contract is subject to cancellation but the rights must still appear in the note form.

A question was raised as to whether the fee schedule for registrations made under the provisions of the new State Certification would be revised, reduced or eliminated. At the present time, there are no plans to reduce or eliminate fees for state filings. When there has been an opportunity to determine the costs involved with the State Certification program, a review of the fee system will be made.

A comment was made that the State Certification program should provide that OILSR would accept all of the exemptions provided the developer by state law. It is not possible for such a provision to be made by OILSR. Both federal and state exemptions are usually specified in the applicable Act and only limited authority is granted to provide additional exemptions by regulation.

Other corrections have been made to take care of typographic errors or omissions in the 1979 publication or to cause citations to agree with the amended regulations. For example, in § 1710.212(b)(3), the provision that only certain subparagraphs need be completed when the subdivision will contain less than 1000 lots has been inserted. This was contained in the Summary of the 1979 publication but inadvertently omitted from the text.

State Certification

A new Subpart C was proposed to be added to provide criteria for reviewing and certifying states with disclosure and substantive regulation. In reviewing Subpart C it was decided to reorder the subpart into a more coherent structure. A new § 1710.504 was added to specify the conditions to which a state agrees when it accepts the Secretary's certification, and to clarify the relationship that will exist among the states and between the states and the Secretary. In the Final Rule § 1710.501 establishes criteria for obtaining certification and § 1710.504 establishes criteria for maintaining certification thereafter. The sections following § 1710.504 have been renumbered to reflect its insertion.

Several comments received expressed concern that states with a sophisticated land sales program may find it difficult to accept disclosure documents from certified states that meet only the minimum requirements for certification. The statute clearly gives the situs states authority to determine the substance and form of disclosure and to determine the initial accuracy of the information contained in the disclosure documents. Once these determinations are made by the situs certified state, other certified states and the Secretary are required to accept the disclosure documents. This statutory mandate is maintained by the regulations in § 1710.504(a)(1) (acceptance by other certified states) and § 1710.506(c) (acceptance by the Secretary). However, once accepted by the other certified states and the Secretary, individual disclosure documents are subject to review for accuracy and the other certified states or the Secretary may fully exercise whatever enforcement powers they have over the developers. See §§ 1710.504(d) and 1710.506(d). In addition, certified states can impose nondisclosure standards on out of state developers as a condition of registration.

One commenter expressed concern that a developer, having met all of the substantive and disclosure requirements and registered with a situs certified state, may, by registering in a second certified state, render its disclosure documents inaccurate. This could occur if the second certified state has different substantive standards than the situs certified state and the disclosure document inaccurately reflects compliance with the standards of the second certified state. Consequently, the second certified state could be compelled to accept a disclosure document it knows to be inaccurate. Two provisions hve been added to the Final Rule in § 1710.504 to ameliorate this situation. First, under § 1710.504(a)(3) the law of the situs certified state must require developers to timely amend disclosure documents if they misrepresent any material fact or include any inaccuracy with regard to the developer's compliance with the substantive requirements of another certified state. Secondly, the second certified state could exercise any enforcement powers it has with regard to misrepresentations or inaccuracies. See § 1710.504(d).

Other provisions in § 1710.504 provide that each certified state is expected to cooperate with and assist not only the Secretary but also the other certified states by certifying documents (§ 1710.504(a)(2)), and continuing to actively administer its land sales program (§ 1710.504(a) (4) and (5)). The Secretary has pledged cooperation by

offering a forum for dispute resolutions (§ 1710.504(e) and (f)).

Material previously located elsewhere in the proposed Rule has been placed in the new § 1710.504. The last sentence in § 1710.501(b)(1), Section 5 of the Application for Certification contained in § 1710.502(a), and the certification statement contained in § 1710.506(b), all have been placed in § 1710.504.

Section 1710.500(b) is new; it defines "situs certified state." Other changes have been made to clarify that states are certified only with regard to land located within its borders. A new sentence was added at the beginning of § 1710.506(g) to this effect. Section 1710.500(a) was modified by adding the phrase "a state in which the land is located" to clarify that the Secretary is bound only to accept the disclosure documents of a developer effectively registered with a situs certified state. Neither the Secretary nor other certified states are bound to accept disclosure documents of a developer registered with a certified State that is not the situs certified state. Acceptance of such disclosure documents by the Secretary will be on a case by case basis.

Comments were received on § 1710.501(e)(5), stating that the requirement to disclose any "action which may have financial impact on the subdivision" is vague and arbitrary. This proposed section has been modified to limit disclosure to information that might have a material adverse impact on the developer's finances, ability to transfer title or ability to complete promised facilities.

A new paragraph 1710.501(f) has been added to the Final Rule, specifying that in order to be certified by the Secretary, a state agrees not to approve any disclosure documents not in compliance with 15 U.S.C. 1703(a)(2)(D), in that any disclosure with regard to the developer's obligation to provide or complete roads, sewers, water, gas or electric service or recreational amenities must reflect the developer's obligations to complete the facilities and not allow representations unless the contract obligates the developer to complete them. Although this requirement was not explicitly stated in the Proposed Rule, it was implicitly stated in § 1710.500(d) (redisignated (e) in the Final Rule) which made the provisions of Part 1715 applicable to developers registered through a certified state.

Proposed § 1710.501(f) has been redesignated (g) and modified by the addition of the words "the applicable disclosure document containing" to clarify that the disclosure documents, not just the information they contain, must be distributed.

Section 1710.501(i) has been redesignated (j) and modified to clarify that the Secretary's certification may be conditioned upon the state's agreement to add a cover page and by changing the "seven day federal cooling-off period" to the "Federal revocation period."

Section 1710.504(a), redesignated now as 1710.505(a) has been modified by changing the reference from "1710.501" to "Subpart C." A violation of any requirement of this Subpart may result in withdrawal of a state's certification.

Section 1710.552(a) has been modified to clearly reflect that developers whose registrations continue in effect under this grandfather provision are subject to the amendments made to the Act with regard to notifying purchasers of their revocation rights, and with regard to making representations concerning the developer's obligations to provide or complete roads, sewers, water, gas, electricity or recreational facilities.

Sections 1710.558 and 1710.559 have been rewritten for reasons stated in the previous paragraph and to reflect changes made in §§ 1710.105 (c) and (d) and 1710.209(f)(3).

Comments received requested a clarification on the effective date of Subpart C and the proposed deletion of §§ 1710.52 through 1710.59. Subpart C is effective as of June 21, 1980. Sections 1710.52 through 1710.59 remain in effect until January 1, 1981, when they shall be deleted. Filings made under §§ 1710.52 through 1710.59 prior to January 1, 1981, remain in effect after that date subject to the provisions of §§ 1710.552 through 1710.559.

Comments were received on the Proposed Rule's failure to provide for notice to the general public on whether a particular state's Application for Certification was approved by the Secretary and failure to provide notice to developers in a certified state that the state's certification has been withdrawn. Notice provisions have been added to the Final Rule to cover each of these situations. Section 1710.503(c) provides that the Secretary's acceptance or rejection of a state's Application for Certification shall be published in the **Federal Register.** Section 1710.505(c) provides that the order withdrawing a state's certification shall be published in the **Federal Register** and § 1710.508(a) provides that the effectiveness of disclosure documents for subdivisions registered through a state certified under § 1710.501(b) shall terminate ninety (90) days after the notice of withdrawal of that state's certification is published in the **Federal Register.**

Purchaser's Revocation Rights, Sales Practices and Standards

Part 1715 was proposed to be amended primarily to implement the revocation provisions and the misrepresentation prohibitions added by the 1979 amendments to the Housing and Community Development Act. In reviewing Part 1715 it was decided also to reorder the part into a more coherent structure. Part of that reordering was the simplification and clarification of the present § 1715.15, the Advertising Standards and Guidelines, and to clarify that these guidelines are now interpretative rules and are not confined to advertising representations.

Several comments were received on the proposed changes to Part 1715. The definition of "applicable state law" which was proposed in § 1715.2, has been deleted in final form in favor of a general statement that if a state's law provides a longer revocation period, that longer revocation period applies. The definition of "applicable state law" is discussed earlier in the preamble.

Probably the most heavily commented upon proposal was the § 1715.4(b)(2), proposal to define "damages incurred by the seller or lessor." The overwhelming majority of comment was adverse and was questioning of the Department's authority to promulgate such a definition. Commenters argued that elements of damage have been so well developed through traditional case law that there was no need for the Department to vary from those historical definitions. HUD finds these arguments persuasive and concludes that damages should be determined in a case by case method and the facts of each particular case should be examined. Accordingly, the proposed definition has been dropped, and a statement that damages means actual damages as determined by the law of the appropriate jurisdiction is set forth as a final rule. Inasmuch as strong arguments were made that no predetermination of actual damages should be made, a prohibition against defining or describing elements of actual damage in the contract is also set forth in the final rule. This prohibition comports with section 1413 of the statute.

The 20-day notice of default or breach period required by clause (a)(2) of § 1715.4 posed a problem for some commenters because it runs from the purchaser's receipt of notice. Comments suggested a regulation be adopted interpreting "receipt" to be "deposit in the post." The Department has decided not to adopt the suggestion. First, "receipt" of notice language is clearly a statutory requirement. More

importantly, the Department is of the opinion the law will not compel an impossibility. Therefore, in cases where purchasers cannot reasonably be located, a good faith attempt to notify will suffice. Typically, the return of a notice mailed certified, return receipt requested, marked "Moved—left no forwarding address" or "Unclaimed" would indicate the starting time from which to measure the 20 days.

Proposed § 1715.5 was criticized for exceeding the intent of the statutory language. It was intended by the regulatory explanation to show that the statute indicates that the physical, as well as the legal condition of a lot upon reconveyance must be substantially similar to those conditions when the lot was conveyed to the purchaser. After considering the matter the Department decided to drop the language dealing with deliberate and negligent actions of the purchasers and to more closely follow the statutory language.

There was a comment as to whom § 1715.15 applies; i.e., some developers are exempt from this section. There is no question that developers who operate under absolute exemptions from the entire Act by law are exempt from Part 1715, as well as any other regulations. It would be superfluous to state that fact.

There is a technical change in the structure of § 1715.15. As proposed this section contained two major subsections (a) and (b), each having three clauses. A review of the section resulted in a staff recommendation that there was no realistic basis for that arrangement. The recommendation was accepted. Accordingly, § 1715.15 in final form contains six subsections (a)–(f).

A considerable amount of adverse comment was directed at proposed § 1715.15(b)(3), which prohibits representations that roads, sewers, water, gas or electric service, or recreational amenities will be provided or completed by the developer unless there is a contractual provision expressly obligating the developer to provide or complete such facilities or amenities. Comments were directed at an example in that section which mandated a completion deadline. The final rule deletes the requirement for a completion date and explains the scope of "representation" for the purposes of this section of the Act and recognizes certain circumstances which would excuse completion or a delay in completion, though the circumstances are limited. It is the Department's belief that a reasonable time requirement will be imposed on representations regarding completion or providing the described facilities or amenities. It is also the Department's belief that the reasonable time test will be based upon the type and nature of the representation made and the kind of facility or amenity represented to be completed or provided.

There were three basic areas of adverse substantive comment about proposed § 1715.20 which is essentially a redesignation of present § 1715.25. One comment raised the question of the language in Subsection (e), which refers to the use of any practice, device or representation . . . to deny a purchaser a refund right as being beyond the scope of a prohibited practice. The Department agrees and has amended that clause per the comment to read: "(e) Use any misleading practice, device or representation . . .". Objection was taken to § 1715.20(g), which prescribes the use of a Property Report or other documents prepared in a language other than that in which the sales campaign is conducted (unless an accurate translation is attached to the document). The basis for this objection was that additional time was needed to prepare for compliance because the commenter conducts sales campaigns in three languages other than English. However, in view of the requirements of present § 1715.25(g), which are essentially the same as those proposed at § 1715.20(g), the Department finds the comment to lack merit, and the final rule is published in the same form as proposed. The only substantive change from the present § 1715.25 to the proposed § 1715.20 was the addition of Subsection (j) dealing with representations of lots as homesites. Most of these requirements are distilled from present § 1715.25. The homesite representation topic was moved to the proposed section based upon Congressional concerns about the suitability of a lot with respect to water, sewage disposal and access as expressed in §§ 1403(b)(5), (6) and 1404(a)(2)(D). One proposed criterion that dealt with lot finishing and site preparation costs with reference to the norm for the area has been deleted in final form. This deletion is made in consequence of a comment that pointed out the difficulty in establishing the norm for such costs for areas in which a given subdivision might be located.

This proposal (§ 1715.20) was reviewed within the context of authority to promulgate the regulation as a whole since the question of authority was raised. After review and consideration of comments the Department determined that subsection (a) was placed inappropriately in this section. That subsection which deals with false reports of lots being sold, appears in final form in § 1715.25. The remainder of this section is retained in final form because it deals with areas integral to the very essence of the statute: conduct at the point of sale. The regulations reflect reasonable application of the functions and powers conferred upon the Secretary.

The comments directed at proposed § 1715.25 raised the question of the Department's authority to convert "guidelines" to "regulations." No comments, however, discussed the substance of the individual proposals. The questions raised about this proposal may stem in part from changing the title of the section from Advertising Standards and Guidelines to Misleading Sales Practices. Also, the Department agrees with the comments that the early paragraphs of proposed § 1715.25 were susceptible to confusion. It was the intention of this proposal to simplify and clarify what are now identified as Advertising Standards and Guidelines. In their present form there is a considerable amount of duplication, narrow focus and excess wordage. Additionally, the section is now geared only to advertising practices. Inasmuch as the section is intended to convey some of the Department's interpretations of section 1404(a)(2), it is clear that the conduct sought to be described is not limited to advertising.

In its final form it should be clear that this section functions as a policy statement, or interpretative rule, of the Secretary. There is no question that the Department has authority to issue interpretive rules. Moreover, there has been additional simplification without sacrificing the nature of the improper conduct sought to be described. Also, since there was an overlap with respect to certain subject matter, some subsections have been deleted in final form. Specifically, references are made to proposed §§ 1715.25(f) and 1715.25(t).

A number of requests were received that the effective date of the statutory changes be delayed. No basis has been found for any authority for OILSR to ignore or delay the effective date specified by Congress.

Two comments were received objecting that the comment period was not the full 60 days contemplated for most regulations by Executive Order 12044. In accordance with Departmental procedures implementing E.O. 12044, the Secretary approved reducing the comment period from 60 to 30 days. This period was necessitated by the June 21, 1980 effective date imposed by Congress on the amendments to the Act. Developers and other members of the public indicated the need to have final regulations as soon as possible. Only by reducing the comment period was the

Department able to meet the Congressional review requirements and publish the final regulations prior to June 21, 1980. However, HUD did give the public early and meaningful opportunities to participate in the development of the regulations by sending notice of the regulation changes to the 6,700 person OILSR mailing list; notifying directly industry and consumer groups and other interested parties of the impending changes; and holding public hearings in Washington, D.C., Dallas, Texas and San Francisco, California. It was the purpose of these actions and this statement to conform to the requirements of section 2(c) of E.O. 12044.

A Supplemental Environmental Impact Statement has been prepared in connection with these amended regulations and is available for public inspection at the Office of HUD Rules Docket Clerk, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

Because of the legislative effective date imposed in Public Law 96-153, a waiver of a portion of the review period for the Supplemental Environmental Impact Statement has been approved by the Department, the Environmental Protection Agency and the Council on Environmental Quality.

It has been determined that a Regulatory Analysis is not required for these amendments.

This rule is listed as item number NVACP 7-79 in the Department's semi-annual agenda of significant rules published pursuant to Executive Order 12044.

Parts 1710, 1715, and 1720 are amended accordingly and 1730 is added, as follows: 1. The Table of Contents for Part 1710 is revised to read as follows:

PART 1710—LAND REGISTRATION

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1710.2 Official address.
1710.3 General applicability.
1710.4 Exemptions—General.
1710.5 Statutory exemptions from the provisions of this chapter.
1710.6 One hundred lot exemption.
1710.7 Twelve lot exemption.
1710.8 Scattered site subdivisions.
1710.9 Twenty acre lots.
1710.10 Single family residence exemption.
1710.11 Mobile home exemption.
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1710.13 Standard Metropolitan Statistical Area (SMSA) exemption.
1710.14 Regulatory exemptions.
1710.15 Regulatory exemptions—For previously available exemptions.
1710.16 Regulatory exemption—Determination required.
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1710.18 No action letter.
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1710.20 Requirement for registering a subdivision. Statement of record—Filing and form.
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1710.22 Statement of record—Initial or consolidated.
1710.23 Amendment—Filing and form.
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1710.29 Use of property report—Misstatements, omissions or representation of HUD approval prohibited.
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1710.35 Payment of fees.
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Subpart B—Reporting Requirements

1710.100 Statement of record—Format.
1710.101 [Reserved]
1710.102 General instructions for completing the statement of record.
1710.103 Developer obligated improvements.
1710.104 [Reserved]
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1710.107 Risks of buying land, warnings.
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1710.200 Instructions for additional information and documentation.
1710.201–207 [Reserved]
1710.208 General information.
1710.209 Title and land use.
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1710.212 Financial information.
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1710.214 Recreational facilities.
1710.215 Subdivision characteristics and climate.
1710.216 Additional information.
1710.217–218 [Reserved]
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1710.220–299 [Reserved]
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1710.310 Required notice as to activity.
1710.311–399 [Reserved]
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Subpart C—Certification of Substantially Equivalent State Law

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1710.501 Certification criteria.
1710.502 Application for certification of state land sales program.
1710.503 Notice of certification.
1710.504 Cooperation among certified states and between certified states and the Secretary.
1710.505 Withdrawal of state certification.
1710.506 State/Federal filing requirements.
1710.507 Effect of suspension or withdrawal of certification granted under § 1710.501(a): Full disclosure requirement.
1710.508 Effect of suspension of certification granted under § 1710.501(b): Sufficient protection requirement.
1710.509–1710.551 [Reserved]
1710.552 Previously accepted state filings.
1710.553–1710.555 [Reserved]
1710.556 Previously accepted state filings—Amendments and consolidations.
1710.557 [Reserved]
1710.558 Previously accepted state filings—Notice of revocation rights on property report cover page.
1710.559 Previously accepted state filings—Notice of revocation rights in contracts and agreements.
1710.560–1710.999 [Reserved]

Authority: Sec. 1419, Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 598; 15 U.S.C.; Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

2. Sections 1710.1, 1710.2, 1710.5, 1710.8 through 1710.14, 1710.16 and 1710.18 are revised and §§ 1710.3, 1710.4, 1710.6, 1710.7, 1710.15 and 1710.17 are added to read as follows:

Subpart A—General Requirements

§ 1710.1 Definitions.

As used in this chapter: *"Act"* means the Interstate Land Sales Full Disclosure Act, as amended, 82 Stat. 590, 15 U.S.C. 1701, which became effective in its original form on April 28, 1969.

"Advisory Opinion" means the formal written opinion of the Secretary as to jurisdiction in a particular case or the applicability of an exemption under §§ 1710.5 through 1710.15 based on facts submitted to the Secretary.

"Agent" means any person who represents, or acts for or on behalf of, a developer in selling or leasing, or offering to sell or lease, any lot or lots in a subdivision; but shall not include an attorney at law whose representation of another person consists solely of rendering legal services.

"Available for use" means that in addition to being constructed, the subject facility is fully operative and supplied with any materials and staff necessary for its intended purpose.

"Beneficial property restrictions" means restrictions which are enforceable by the lot owners and are designed to control the use of the lot and to preserve or enhance the environment and the aesthetic and economic value of the subdivision.

"Blanked encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell, or a trust agreement, affecting a subdivision,

except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessments by any public authority.

"Common promotional plan" means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where land is offered for sale by a developer or group of developers acting in concert, and the land is contiguous or is known, designated, or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.

"Date of filing" means the date a Statement of Record, amendment or consolidation, accompanied by the applicable fee, is received by the Secretary.

"Developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots.

"Good faith estimate" means an estimate based on documentary evidence. In the case of cost estimates, the documentation may be obtained from the suppliers of the services. In the case of estimates of completion dates, the documentation may be actual contracts let, engineering schedules or other evidence of commitments to complete the amenities.

"Interstate Commerce" means trade or commerce among the several States or between any foreign country and any State.

"Lot" means any portion, piece, division, unit, or undivided interest in land located in any state or foreign country if the interest includes the right to the exclusive use of a specific portion of the land.

"Offer" means any inducement, solicitation, or attempt to encourage a person to acquire a lot.

"OILSR" means the Office of Interstate Land Sales Registration.

"Owner" means the person or entity who holds the fee title to the land and has the power to convey that title to others.

"Parent Corporation" means that entity which ultimately controls the subsidiary even though the control may arise through any series or chain of other subsidiaries or entities.

"Person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate.

"Principal" means any person or entity holding a 10%, or more, financial or ownership interest in the developer or owner, directly or through any series or chain of subsidiaries or other entities.

"Purchaser" means an actual or prospective purchaser or lessee of a lot.

"Rules and Regulations" refer to all rules and regulations adopted pursuant to the Act, including the general requirements published in this part.

"Sale" means any obligation or arrangement for consideration to purchase or lease a lot directly or indirectly. The terms "sale" or "seller" include in their meanings the term "lease" and "lessor."

"Secretary" means the Secretary of Housing and Urban Development or a duly authorized representative.

"Senior executive officer" means the individual of highest rank responsible for the day to day operations of the developer and who has the authority to bind or commit the developing entity to contractual obligations.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

"Start of construction" means breaking ground for building a facility followed by diligent action to complete the facility.

"Subdivision" means any land which is located in any State or in a foreign country and is divided or proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan.

§ 1710.2 Official address.

The official address of the Secretary for delivery of all mail, telegrams, information, filings, registration, and other material required by or relating to the Act or this chapter is:

Department of Housing and Urban Development, Office of Interstate Land Sales Registration, 451, Seventh Street, S.W., Washington, D.C. 20410.

§ 1710.3 General applicability.

Except in the case of an exempt transaction, a developer may not sell or lease lots in a subdivision, making use of any means or instruments of transportation or communication in interstate commerce, or of the mails, unless a Statement of Record is in effect in accordance with the provisions of this part. In non-exempt transactions, the developer must give each purchaser a printed Property Report, meeting the requirements of this part, in advance of the purchaser's signing of any contract or agreement for sale or lease.

§ 1710.4 Exemptions—general.

(a) The exemptions available under §§ 1710.5 through 1710.16 are not applicable when the method of sale, lease or other disposition of land or an interest in land is adopted for the purpose of evasion of the Act.

(b) With the exception of the sales or leases which are exempt under § 1710.5, the anti-fraud provisions of the Act (15 U.S.C. 1703(a)(2)) apply to exempt transactions. The anti-fraud provisions make it unlawful for a developer or agent to employ any device, scheme, or artifice to (1) defraud; (2) to obtain money or property by means of any untrue statement of a material fact, or (3) to omit to state a material fact necessary in order to make the statements made not misleading, with respect to any information pertinent to the lot or subdivision; or (4) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser.

(c) The anti-fraud provisions of the Act require that certain representations be included in the contract in transactions which are not exempt under § 1710.5. Specifically, the Act requires that if a developer or agent represents that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract must stipulate that the services or amenities will be provided or completed. See § 1715.15(f).

(d) Eligibility for exemptions available under § 1710.5 through § 1710.15 is self-determining. With the exception of the exemptions available under §§ 1710.15 and 1710.16, a developer is not required to file notice with or obtain the approval of the Secretary in order to take advantage of an exemption. If a developer elects to take advantage of an exemption, the developer is responsible for maintaining records to demonstrate that the requirements of the exemption have been met.

(e) A developer may present evidence, or otherwise discuss, in an informal hearing before the OILSR Administrator or designee, the Department's position on the jurisdiction or non-exempt status of a particular subdivision.

§ 1710.5 Statutory exemptions from the provisions of this chapter.

The requirements of the Act do not apply to—

(a) The sale or lease of lots in a subdivision containing fewer than 25 lots;

(b) The sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or

lessor to erect such a building thereon within a period of two years;

(c) The sale of evidences of indebtedness secured by a mortgage or a deed of trust on real estate;

(d) The sale of securities issued by a real estate investment trust;

(e) The sale or lease of real estate by any government or government agency;

(f) The sale or lease of cemetery lots;

(g) The sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of the lots to persons engaged in such business; or

(h) The sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which the real estate is located, when—

(1) Local authorities have approved access from the real estate to a public street or highway;

(2) The purchaser or lessee of the real estate is a duly organized corporation, partnership, trust, or busines entity engaged in commercial or industrial business;

(3) The purchaser or lessee of the real estate is represented in the transaction of sale or lease by a representative of its own selection;

(4) The purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing the real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease the real estate to an entity which meets the requirements of paragraph (h)(2) of this section, is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and

(5) A policy of title insurance or title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to exceptions which are approved in writing by the purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) this is not to be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

§ 1710.6 One hundred lot exemption.

The sale of lots in a subdivision is exempt from the registration requirements of the Act if, since April 28, 1969, the subdivision has contained fewer than 100 lots, exclusive of lots which are exempt from jurisdiction under § 1710.5. In the sale of lots in the subdivision which are not exempt under § 1710.5, the developer must comply with the Act's anti-fraud provisions. Therefore, if the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See Section 1715.15(f).

§ 1710.7 Twelve lot exemption.

(a) The sale of lots is exempt from the registration requirements of the Act if, beginning with the first sale after June 20, 1980, no more than twelve lots in the subdivision are sold in the subsequent twelve-month period. Thereafter, the sale of the first twelve lots is exempt from the registration requirements if no more than twelve lots were sold in each previous twelve month period which began with the anniversary date of the first sale after June 20, 1980.

(b) A developer may apply to the Secretary to establish a different twelve month period for use in determining eligibility for the exemption and the Secretary may allow the change if it is for good cause and consistent with the purpose of this section.

(c) In determining eligibility for this exemption, all lots sold or leased in the subdivision after June 20, 1980 are counted, whether or not the transactions are otherwise exempt. Sales or leases made prior to June 21, 1980 are not considered in determining eligibility for the exemption.

(d) If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.8 Scattered site subdivisions.

(a) The sale of lots in a subdivision consisting of noncontiguous parts is exempt from the registration requirements of the Act if—

(1) Each noncontiguous part of the subdivision contains twenty or fewer lots; and

(2) Each purchaser or purchaser's spouse makes a personal, on-the-lot inspection of the lot purchased prior to signing a contract.

(b) For purposes of this exemption, interruptions such as roads, parks, small bodies of water or recreational facilities do not serve to break the contiguity of parts of a subdivision.

(c) If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.9 Twenty acre lots.

(a) The sale of lots in a subdivision is exempt from the registration requirements of the Act if, since April 28, 1969, each lot in the subdivision has contained at least twenty acres. In determining eligibility for the exemption, easements for ingress and egress or public utilities are considered part of the total acreage of the lot if the purchaser retains ownership of the property affected by the easement.

(b) If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.10 Single family residence exemption.

(a) *General.* The sale of a lot which meets the requirements specified under paragraphs (b) and (c) of this section is exempt from the registration requirements of the Act.

(b) *Subdivision Requirements.* (1) The subdivision must meet all local codes and standards.

(2) In the promotion of the subdivision there must be no offers, by direct mail or telephone solicitation, of gifts, trips, dinners or use of similar promotional techniques to induce prospective purchasers to visit the subdivision or to purchase a lot.

(c) *Lot Requirements.* (1) The lot must be located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries. Standards imposed by the State and applicable to the subdivision will be considered also in determining eligibility for the exemption. The standards are the prerogative of the unit of local government; however, for purposes of this exemption, the standards must take into account the following:

(i) Lot dimensions.

(ii) Plat approval and recordation.

(iii) Roads and access.

(iv) Drainage.
(v) Flooding.
(vi) Water supply.
(vii) Sewage disposal.

(2) Each lot sold under the exemption must be either zoned for single-family residences or, in the absence of a zoning ordinance, limited exclusively by enforceable covenants or restrictions to single-family residences. Mobile homes, townhouses, and residences for one-to-four family use are considered single-family residences for purposes of this exemption provision.

(3) The lot must be situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to the unit. If the street or highway is not complete, the developer must post a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing the street or highway to assure completion to local standards. For purposes of this exemption, paved means asphalt or concrete.

(4) The unit of local government or a homeowners association must have accepted or be obligated to accept the responsibility for maintaining the street or highway upon which the lot is situated. In any case in which a homeowners association has accepted or is obligated to accept maintenance responsibility, the developer must, prior to signing of a contract or agreement to purchase, provide the purchaser with a good faith written estimate of the cost of carrying out the responsibility over the first ten years of ownership.

(5) At the time of closing, potable water, sanitary sewage disposal, and electricity must be extended to the lot or the unit of local government must be obligated to install the facilities within 180 days following closing. For subdivisions which will not have a central water or sewage disposal system, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank.

(6) The contract of sale must require delivery of a warranty deed, free from monetary liens and encumbrances to the purchaser within 180 days after the signing of the sales contract. If a warranty deed is not commonly used in the jurisdiction where the lot is located, a deed or grant which warrants that the seller has not conveyed the lot to another person may be delivered in lieu of a warranty deed. The deed or grant used must warrant that the lot is free from encumbrances made by the seller or any other person claiming by, through, or under the seller.

(7) At the time of closing, a title insurance binder or title opinion reflecting the condition of title must be in existence and issued or presented to the purchaser showing that, subject only to exceptions which are approved in writing by the purchaser at the time of closing, marketable title to the lot is vested in the seller.

(8) The purchaser or purchaser's spouse must make a personal, on-the-lot inspection of the lot purchased prior to signing a contract or agreement to purchase.

(d) If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.11 Mobile home exemption.

(a) The sale of a lot is exempt from the registration requirements of the Act when the following eligibility requirements are met:

(1) The lot is sold as a homesite by one party and a mobile home is sold by another party and the contracts of sale—

(i) Obligate the sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected on a completed homesite within two years after the date the purchaser signed the contract to purchase the lot;

(ii) Provide that all funds received by the sellers are to be deposited in escrow accounts independent of the sellers until the transactions are completed;

(iii) Provide that funds received by the sellers will be released to the buyer upon demand if the lot on which the mobile home has been erected is not conveyed within two years; and

(iv) Contain no provisions which restrict the purchaser's remedy of bringing suit for specific performance.

(2) The homesite is developed in conformance with all local codes and standards, if any, for mobile home subdivisions.

(3) At the time of closing—

(i) Potable water and sanitary sewage disposal are available to the homesite and electricity has been extended to the lot line;

(ii) The homesite is accessible by roads;

(iii) The purchaser receives marketable title to the lot; and

(iv) Other common facilities represented in any manner by the developer or agent to be provided are completed or there are letters of credit, cash escrows or surety bonds in the form acceptable to the local government in an amount equal to 100 percent of the estimated cost of completion. Corporate bonds are not acceptable for purposes of the exemption.

(4) For purposes of this Section, a mobile home is a unit receiving a label in conformance with HUD Regulations implementing the National Mobile Home Construction and Safety Standards Act of 1974 [42 U.S.C. 5401].

(5) If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.12 Intrastate exemption.

(a) *Eligibility Requirements.* The sale of a lot is exempt from the registration requirements of the Act if the following requirements are met:

(1) The sale of lots in the subdivision after December 20, 1979, is restricted solely to residents of the State in which the subdivision is located unless the sale is exempt under §§ 1710.5, 1710.11 or 1710.13.

(2) The purchaser or purchaser's spouse makes a personal on-the-lot inspection of the lot to be purchased before signing a contract.

(3) Each contract—

(i) Specifies the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities;

(ii) Contains a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed; and

(iii) Contains a non-waivable provision giving the purchaser the opportunity to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract. If the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the contract must reflect the requirements of the longer period.

(4) From the date the purchaser signs a contract until a deed is delivered, the lot being sold is free and clear of all liens, encumbrances and adverse claims except the following:

(i) Mortgages or deeds of trust which contain release provisions for the individual lot purchased if—

(A) The contract of sale obligates the developer to deliver a warranty deed or its equivalent under local law free from

any monetary liens or encumbrances, within 180 days; and

(B) the purchaser's payments are deposited in an escrow account independent of the developer until a deed is delivered.

(ii) Liens which are subordinate to the leasehold interest and do not affect the lessee's right to use or enjoy the lot.

(iii) Property reservations which are for the purpose of bringing public services to the land being developed, such as easements for water and sewer lines.

(iv) Taxes or assessments which constitute liens before they are due and payable if imposed by a State or other public body having authority to assess and tax property or by a property owners' association.

(v) Beneficial property restrictions which are mutually enforceable by the lot owners in the subdivision. In order to be enforceable, restrictions must be part of a general plan of development. Restrictions, whether separately recorded or incorporated into individual deeds, must be applied uniformly to every lot in a general plan of development. To be considered beneficial and enforceable, any restriction or covenant that imposes an assessment on lot owners must apply to the developer on the same basis as other lot owners.

(vi) Reservations contained in United States land patents and similar Federal grants or reservations.

(5) Prior to the sale the developer discloses in a written statement to the purchaser all qualifying liens, reservations, taxes, assessments and restrictions applicable to the lot purchased. The developer must obtain a written receipt from the purchaser acknowledging that the statement required by this subparagraph was delivered to the purchaser.

(6) Prior to the sale the developer provides in a written statement good faith estimates of the cost to the purchaser of providing electric, water, sewer, gas and telephone service to the lot. The estimates for unsold lots must be updated every two years or more frequently if the developer has reason to believe that significant cost increases have occurred. The dates on which the estimates were made must be included in the statement. The developer must obtain a written receipt from the purchaser acknowledging that the statement required by this subparagraph was delivered to the purchaser.

(b) *Intrastate Exemption Statement.* The Intrastate Exemption Statement that follows is an example of a form that can be used to satisfy the requirements of both paragraphs (a)(5) and (a)(6) of this section. A State approved disclosure document may be used to satisfy the requirements of paragraphs (a)(5) and/or (a)(6) of this section if all of the information required by those paragraphs is included in the disclosures. In such a case, the developer must still obtain a written receipt from the purchaser and comply with all other requirements of the exemption.

To be acceptable for purposes of the exemption, the statement(s) given to purchasers will contain neither advertising or promotion on behalf of the developer and subdivision nor references to the U.S. Department of Housing and Urban Development.

Sample Format

Intrastate Exemption Statement

Name of Developer _____
Address _____
Name of Subdivision _____
Location _____

Liens

(Under this heading the developer should provide a clear and concise listing of all liens on the property. As used in this statement, liens are security interests such as mortgages or deeds of trust, tax liens, mechanics liens or judgments. Liens which are acceptable for purposes of the exemption are those which contain release provisions for the individual lot purchased if the contract of sale obligates the developer to deliver a deed within 180 days and the purchaser's payments are held in an escrow account independent of the developer until a deed is delivered; and, in the case of leases, liens which are subordinate to the leasehold interest and do not affect the lessee's right to enjoy or use the lot.

(A chart similar to the one shown below may be used.)

Type Of Lien	Amount of Lien	Lots Subject to Lien

Reservations

(Under this heading the developer should disclose all easements and reservations affecting the lots which are offered for sale. The Interpretive Rules contain examples of qualifying easements and reservations.)

Taxes

(Under this heading the developer should provide sufficient information to enable a purchaser to estimate the annual taxes due on the lot purchased.)

Assessments

(Under this heading the developer should disclose all assessments, fees and dues which have been imposed or may be imposed. The list of assessments, fees and dues should show the rates and amounts and explain who has the authority for imposing the listed assessments, fees and dues.)

Restrictions

(Under this heading the developer should recite verbatim all restrictions that apply to the lots being offered. In the alternative, the developer may attach to the Intrastate Exemption Statement a complete copy of all restrictions affecting the lots.

(If the restrictions do not apply to all the lots in the offering, the developer should specify which lots are affected by the restrictions.

(In addition, the developer should explain who has the authority to enforce the restrictions and indicate whether or not the restrictions are recorded.)

Utility Cost Estimates

(Under this heading the developer must disclose a good faith estimate of the cost to the purchaser of providing water, electric, telephone, sewage disposal and gas service to each lot offered under the exemption. The estimate should include all costs associated with obtaining the services. For example, if private wells are the water source, the estimate should include the cost of the well, pump, casing, etc. Estimates for unsold lots should be updated every two years or more frequently if the developer has reason to believe that significant cost increases have occurred. The date on which each estimate was made should be disclosed. A chart similar to the one below may be used to supply this information.)

Lot Number	Water Electric Telephone Sewage Dis. Gas
	(Under each heading list the cost to the purchaser and the date the estimate was made.)

I affirm that to the best of my knowledge the above information is accurate and complete.

(Signature of Developer or Authorized Agent)

(Date)

(Title)

(c) *Purchaser's Acknowledgement.* The developer must obtain a written receipt from the purchaser acknowledging that the purchaser received a written statement(s) of all liens, reservations, taxes, assessments and restrictions applicable to the lot and good faith estimates of the cost of providing electric, water, sewer, gas and telephone service to the lot. The receipt may be in the following form:

Receipt

I acknowledge that I have received an Intrastate Exemption Statement listing all liens, reservations, taxes, assessments, restrictions and estimates of utility costs applicable to (identify the subdivision and its location) from (name of developer). I have made a personal on-the-lot inspection of (identify the lot) which is the lot I am interested in buying or leasing.

(Signature of Purchaser)

(Date)

(d) *Developer's representations.* If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.13 Standard Metropolitan Statistical Area (SMSA) exemption.

(a) *Eligibility Requirements.* The sale of a lot which meets the following requirements is exempt from registration requirements of the Act:

(1) The lot is in a subdivision which contains fewer than 300 lots and has contained fewer than 300 lots since April 28, 1969.

(2) The lot is located within a Standard Metropolitan Statistical Area (SMSA) as defined by the U.S. Department of Commerce and characterized in paragraph (b) of this section.

(3) The principal residence of the purchaser is within the same SMSA as the subdivision.

(4) The purchaser or purchaser's spouse makes a personal on-the-lot inspection of the lot to be purchased prior to signing a contract or agreement.

(5) Each contract—

(i) Specifies the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities;

(ii) Contains a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed;

(iii) Contains a nonwaivable provision giving the purchaser the opportunity to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract, or, if the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the contract must reflect the requirements of the longer period.

(6) From the time the purchaser signs the contract or agreement and until a deed is delivered to the purchaser or the lease expires, the lot is free and clear of liens such as mortgages, deeds of trust, tax liens, mechanics liens or judgements. For purposes of this exemption, the term "liens" does not include the following:

(i) Mortgages or deeds of trust which contain release provisions for the individual lot purchased if—

(A) The contract of the sale obligates the developer to deliver a warranty deed or its equivalent under local law, free from any monetary liens or encumbrances, within 180 days; and

(B) The purchaser's payments are deposited in an escrow account independent of the developer until a deed is delivered.

(ii) Liens which are subordinate to the leasehold interest and do not affect the lessee's right to use or enjoy the lot.

(iii) Property reservations which are for the purpose of bringing public services to the land being developed, such as easements for water and sewer lines.

(iv) Taxes or assessments which constitute liens before they are due and payable if imposed by a State or other public body having authority to assess and tax property or by a property owners' association.

(v) Beneficial property restrictions which are mutually enforceable by the lot owners in the subdivision. In order to be enforceable, restrictions must be part of a general plan of development. Restrictions, whether separately recorded or incorporated into individual deeds, must be applied uniformly to every lot in a general plan of development. To be considered beneficial and enforceable, any restriction or covenant that imposes an assessment on lot owners must apply to the developer on the same basis as other lot owners.

(vi) Reservations contained in United States land patents and similar Federal grants or reservations.

(7) Prior to the sale the developer gives a written statement to the purchaser and obtains a written receipt from the purchaser acknowledging that the statement was received. In descriptive and concise terms, the statement that the developer must give the purchaser shall disclose the following:

(i) All liens, reservations, taxes, assessments, beneficial property restrictions which are enforceable by other lot owners in the subdivision, and adverse claims which are applicable to the lot to be purchased.

(ii) Good faith estimates of the cost to the purchaser of providing electric, water, sewer, gas and telephone service to the lot. The estimates for unsold lots must be updated every two years or more frequently if the developer has reason to believe that significant cost increases have occurred. The dates on which the estimates were made must be included in the statement.

(8) The developer executes and gives to the purchaser a written instrument designating a person within the State of residence of the purchaser as the developer's agent for service of process. The developer must also acknowledge in writing that it submits to the legal jurisdiction of the State in which the purchaser or lessee resides.

(9) The developer executes a written affirmation in the form set forth in paragraph (d) of this section for each sale made under this exemption. By January 31 of each year, the developer submits to the Secretary a copy of the executed affirmation for each sale made during the preceding calendar year or a master affirmation in which are listed all purchaser's names and addresses and the identity of the lots purchased. Individual affirmations must be available for the Secretary's review at all times during the year.

(b) *Standard Metropolitan Statistical Area.* Standard Metropolitan Statistical Areas are defined by the U.S. Department of Commerce generally on the basis of population statistics reported in a census. A Standard Metropolitan Statistical Area (SMSA) is a county or group of counties socially and economically integrated in a central city of at least 50,000 persons. It is usually named for its central city. To determine whether a subdivision is located within an SMSA and the boundaries of an SMSA, contact the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230.

(c) *SMSA Exemption Statement.* The SMSA Exemption Statement that follows is an example of a form that can be used to satisfy the requirements of this section. A State approved disclosure document may be used to satisfy the requirements of paragraph (a)(7) of this section if all of the information required by paragraph (a)(7) of this section is included in the disclosures. In such a case, the developer must still obtain a written receipt from the purchaser and comply with all other requirements of the exemption.

To be acceptable for purposes of this exemption, the statement given to purchasers will contain neither advertising or promotion on behalf of the developer and the subdivision nor references to the U.S. Department of Housing and Urban Development.

Sample Format

SMSA Exemption Statement

Name of Developer _____
Address _____
Name of Subdivision _____
Location _____
SMSA _____

Liens

(Under this heading, the developer should provide a clear and concise listing of all liens on the property. As used in this statement, liens are security interests such as mortgages or deeds of trust, tax liens, mechanics liens or judgments. Liens which are acceptable for purposes of the exemption are those which contain release provisions for the individual lot purchased if the contract of sale obligates the developer to deliver a deed within 180 days and the purchaser's payments are held in an escrow account independent of the developer until a deed is delivered; and, in the case of leases, liens which are subordinate to the leasehold interest and do not affect the lessee's right to enjoy or use the lot.)

(A chart similar to the one shown below may be used).)

Type of Lien	Amount of Lien	Lots Subject to Lien

Reservations

(Under this heading the developer should disclose all easements and reservations affecting the lots which are offered for sale.)

Taxes

(Under this heading the developer should provide sufficient information to enable a purchaser to estimate the annual taxes due on the lot purchased.)

Assessments

(Under this heading the developer should provide a complete description of all assessments, fees and dues which have been imposed or may be imposed. The list of assessments, fees and dues should show the rates and amounts and explain who has the authority for imposing the listed assessments, fees and dues.)

Restrictions

(Under this heading the developer should recite verbatim all the beneficial property restrictions that apply to the lots being offered. In the alternative, the developer may attach to the SMSA Exemption Statement a complete copy of all restrictions affecting the lots.

(If the restrictions do not apply to all the lots in the offering, the developer should specify which lots are affected by the restrictions.

(In addition, the developer should explain who has the authority to enforce the restrictions and indicate whether or not the restrictions are recorded.)

Adverse Claims

(Under this heading the developer should disclose any known adverse claims against the property. The party making the claim, the basis of the claim and the property affected by the claim should be identified.)

Utility Cost Estimates

(Under this heading the developer should disclose a good faith estimate of the cost to the purchaser of providing water, electric, telephone, sewage disposal and gas service to each lot offered under the exemption. The estimate should include all costs associated with obtaining the services. For example, if private wells are the water source, the estimate should include the cost of the well, pump, casing, etc. Estimates for unsold lots should be updated every two years or more frequently if the developer has reason to believe that significant cost increases have occurred. The date on which each estimate was made should be disclosed.

(A chart similar to the one shown below may be used to supply this information.)

Lot Number	Water Electric Telephone Sewage Gas
	(Under each heading list the cost to the purchaser & the date the estimate was made.)

I affirm that to the best of my knowledge the information contained in this SMSA Exemption Statement is accurate and complete.

(Date)

(Signature of Developer or Authorized Agent)

(Title)

(d) *Purchaser's Acknowledgement.* The developer must obtain a written receipt from the purchaser acknowledging that the purchaser received a written statement(s) of all liens, reservations, taxes, assessments, beneficial property restrictions and adverse claims and good faith estimates of the cost of providing electric, water, sewer, gas and telephone service to the lot. The receipt may be in the following form:

Receipt

I hereby acknowledge that I have received an SMSA Exemption Statement listing all liens, reservations, taxes, assessments, beneficial property restrictions, adverse claims and estimates of utility costs applicable to (identify the subdivision and its location) from (name of developer). I have made a personal on-the-lot inspection of (identify the lot) which is the lot I am interested in buying or leasing.

(Date)

(Signature)

(e) *Developer's Affirmation.* For each sale made, the developer must execute a written affirmation in the exact form that follows. By January 31 of each year, the developer must submit to the Secretary a copy of the executed affirmation for each sale made under the exemption during the preceding calendar year or a master affirmation in which are listed all purchasers' names and addresses and the respective identity of the lots purchased. Individual affirmations must be available for the Secretary's review at all times during the year. The affirmation must be in the following form:

Developer's Name _____
Developer's Address _____
Purchaser's Name(s) _____
Purchaser's Address(es) (including county) _____
Name of Subdivision _____
Legal Description of Lot(s) Purchased _____

I hearby affirm that all of the requirements of the SMSA exemption as set forth in 15 U.S.C. 1702(b)(8) and 24 CFR 1710.13 have been met in the sale or lease of the lot(s) described above.

I also affirm that I submit to the jurisdiction of the Interstate Land Sales Full Disclosure Act with regard to the sale or lease cited above.

(Date)

(Signature of Developer or Authorized Agent)

(Title)

(f) *Developer's Representations.* If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See § 1715.15(f).

§ 1710.14 Regulatory exemptions.

(a) *Eligibility requirements.* The following transactions are exempt from the registration requirements of the Act unless the Secretary has terminated the exemption in accordance with paragraph (b) of this section.

(1) The sale of lots, each of which will be sold for less than $100, including closing costs, if the purchaser will not be required to purchase more than one lot.

(2) The lease of lots for a term not to exceed five years if the terms of the lease do not obligate the lessee to renew.

(3) The sale of lots to a person who is engaged in a bona fide land sales business.

(4) The sale of a lot to a person who owns the contiguous lot which has a residential, commercial or industrial building on it.

(5) The sale of real estate to a government or government agency.

(6) The sale of a lot to a person who has leased and resided primarily on the lot for at least the year preceeding the sale.

(b) *Termination.* If the Secretary has reasonable grounds to believe that exemption from the registration requirements in a particular case is not in the public interest, the Secretary may, after issuing a notice and giving the respondent an opportunity to request a hearing within fifteen days of receipt of the notice, terminate eligiblity for exemption. The basis for issuing a notice may be the conduct of the developer or agent, such as unlawful conduct or insolvency, or adverse information about the lots or real estate that should be disclosed to the purchasers. Proceedings will be governed by § 1720.238.

(c) *Developer's representations.* If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See Section 1715.15(f).

§ 1710.15 Regulatory exemption—for previously available exemptions.

(a) *General.* This section provides exemptions from the registration requirements of the Act for the sale of certain lots which were exempt under statutory or regulatory exemptions that are being deleted from general availability as of June 21, 1980 or the effective date of these regulations. The continued exempt status of the sale of these lots is warranted because of the small amount or limited character of the sales program.

(b) *Five acre subdivision exemption.* The sale of lots in subdivisions which were, prior to June 21, 1980, exempt from the requirements of the Act under 24 CFR 1710.10(b) (as published in the **Federal Register** on April 10, 1979) is exempt if the following requirements

and the requirements of paragraph (f) of this section are met:

(1) As of June 21, 1980 there are fewer than 100 lots remaining to be sold in the entire subdivision.

(2) The subdivision continues to meet the requirements of the previously available exemption, i.e., each lot in the subdivision is at least five acres in size.

(c) *Free and Clear Exemption.* The sale of lots for which there was, as of June 20, 1980, an effective exemption and a Statement of Reservations, Restrictions, Taxes and Assessments approved in accordance with 24 CFR 1710.11 (as published in the **Federal Register** on April 10, 1979) is exempt from the registration requirements of the Act if the following requirements and the requirements of paragraph (f) of this section are met:

(1) There are fewer than 100 lots remaining to be sold under the exemption as of the effective date of these regulations.

(2) The property continues to meet the eligibility requirements under which the exemption was granted and upon which the approval of the Statement of Reservations, Restrictions, Taxes and Assessments was predicated.

(3) All presale and postsale requirements of the exemption continue to be met except that the developer need not submit the annual reports required by 24 CFR 1710.11(e) (as published in the **Federal Register** on April 10, 1979).

(4) The developer files notice of intention to continue to rely on the exemption in the following format prior to August 1, 1980:

Exemption Notice

Name of Subdivision _____
Oil SR No _____
Developer _____
Address _____
Authorized Agent or President of Developer
Address _____
Number of Lots Originally Exempted _____
Number of Lots Previously Sold Under Exemption _____
Lots Which Qualify for This Exemption: (Identify by lot, block, etc.) _____

I affirm that I am the developer or owner of the lots described above and that I intend to rely on the provisions of 24 CFR 1710.15(a) to exempt sales of the above identified lots and subsequently reacquired eligible lots from the registration requirements of the Interstate Land Sales Full Disclosure Act.

I further affirm that the property and sales transactions meet and will continue to meet the requirements under which the original exemption was claimed and the Statement of Reservations, Restrictions, Taxes and Assessments was approved.

_____
(Date)

_____
(Signature of Developer or Authorized Agent)

_____
(Title)

(d) *Limited Offering Exemption.* The sale of lots for which there was, as of the effective date of these regulations, an effective exemption under 24 CFR 1710.14(a)(2) (as published in the **Federal Register** on January 27, 1972) is exempt from the registration requirements of the Act if the subdivision, sales and promotion continue to meet the requirements of the previously available exemption and the requirements of paragraph (f) of this section. In addition to compliance with the eligibility requirements, an exemption under 24 CFR 1710.14(a)(2) is evidenced by an effective Exemption Order issued by the Secretary.

(e) *Local Offering Exemption.* The sale of lots for which there was, as of the effective date of these regulations, an effective exemption under 24 CFR 1710.14 (as published in the **Federal Register** on April 10, 1979) is exempt from the registration requirements of the Act if the subdivision, sales and promotion continue to meet the requirements of the previously available exemption and the requirements of paragraph (f) of this section. In addition to compliance with the eligibility requirements, an exemption under 24 CFR 1710.14 is evidenced by a Notice of Exemption filed with the Secretary prior to the effective date of these regulations.

(f) *Contract Requirements.* To be exempt, the contract for the sale of the lot must—

(1) Specify the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities;

(2) Contain a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed; and

(3) Contain a non-waivable provision giving the purchaser the opportunity to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract. If the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the contract must reflect the requirements of the longer period.

(g) *Developer's Representations.* If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See Section 1715.15(f).

§ 1710.16 Regulatory exemption—determination required.

(a) *General.* The Secretary may exempt from the registration requirements of the Act any subdivision or lots in a subdivision by issuing an order in writing if it is determined that registration is not necessary in the public interest and for the protection of purchasers on the basis of the small amount or limited character of the offering and the requirements contained in paragraph (b) of this section.

(b) *Eligibility Requirements.* An exemption order may be issued at the discretion of the Secretary on the basis of the small amount or limited character of the offering if the following requirements are met:

(1) The subdivision or sales substantially meet the requirements of one of the exemptions available under this chapter.

(2) Each contract—

(i) Specifies the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities;

(ii) Contains a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed;

(iii) contains a non-waivable provision giving the purchaser the opportunity to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract. If the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the contract must reflect the requirements of the longer period.

(iv) Contains a provision which obligates the developer to deliver a warranty deed, or its equivalent under local law, free from any monetary liens or encumbrances, to the purchaser within 180 days of the date the purchaser signed the sales contract.

(3) The purchaser or purchaser's spouse makes a personal on-the-lot inspection of the lot to be purchased before signing a contract.

(4) The developer files a request for an exemption order and supporting documentation in accordance with paragraphs (c) and (d) of this section.

(5) The developer submits a $250.00 filing fee in the form of a cashier's check or postal money order made payable to the Treasurer of the United States. This fee is not refundable.

(c) *Request.* The request for an Exemption Order must be in the following format:

Request for Exemption Order

Subdivision _____
Location (including county) _____
Developer _____
Address _____
Authorized Agent or President of Developer _____
Address _____
Number of Lots Subject to Exemption Request _____
Description of Lots (list lot and block number or other identifying designation) _____

I affirm that I am the developer or owner of the property described above or will be the developer or owner at the time the lots are offered for sale to the public, or that I am the agent authorized by the developer or owner to complete this statement.

I further affirm that the statements contained in all documents submitted with the request for an exemption order are true and complete.

_____
(Date)

_____
(Signature of Developer, Owner or Authorized Agent)

_____
(Title)

Warning: Section 1418 of the Housing and Urban Development Act of 1968 (83 Stat. 598, 15 U.S.C. 1717 as amended) provides: "any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * *, shall upon conviction be fined not more than $10,000.00 or imprisoned not more than five years, or both."

(d) *Supporting Documentation.* A request for an exemption order must be accompanied by the following documentation:

(1) A plat of the entire subdivision with the lots subject to the exemption request delineated thereon.

(2) A copy of the contract to be used.

(3) A clear and specific statement detailing how the proposed sales of lots subject to the exemption request substantially complies with one of the available exemption provisions.

(4) A description of the method by which the lots have been and will be promoted and to which population centers the promotion has been and will be directed.

(e) *Developer's Representations.* If the developer or agent represents in any manner that roads, sewers, water, gas or electric service or recreational amenities will be provided or completed by the developer, the contract of sale must contain provisions so obligating the developer. See Section 1715.15(f).

(f) *Termination.* If, subsequent to the issuance of an exemption order, the Secretary has reasonable grounds to believe that exemption from the registration requirements in the particular case is not in the public interest, the Secretary may, after issuing a notice and giving the respondent an opportunity to request a hearing within fifteen days of receipt of the notice, terminate the exemption order. The basis for issuing a notice may be apparent omissions or misrepresentations in the documents submitted to the Secretary, the conduct of the developer or agent, such as unlawful conduct or insolvency, or adverse information about the real estate that should be disclosed to purchasers. Proceedings will be governed by § 1720.238.

§ 1710.17 Advisory opinion.

(a) *General.* A developer may request an opinion from the Secretary as to whether an offering qualifies for an exemption or is subject to the jurisdiction of the Act.

(b) *Requirements.* All requests for Advisory Opinions must be accompanied by the following:

(1) A $250 filing fee in the form of a certified check, cashier's check or postal money order made payable to the Treasurer of the United States. This fee is not refundable.

(2) A comprehensive description of the conditions and operations of the offering. There is no prescribed format for submitting this information, but the developer should at least cite the basis for the exemption (the section of the Act or Regulations) or lack of jurisdiction and thoroughly explain how the offering either satisfies the requirements for exemption or falls outside the purview of the Act. The OILSR Interpretive Rules list examples of material which may be required to fully evaluate an Advisory Opinion request.

(3) An affirmation as shown below:

Developer's Affirmation

Name of Subdivision _____
Location (Including County and State) _____
Name of Developer _____
Address of Developer _____
Name of Agent _____
Address of Agent _____
Number of Lots in Subdivision _____
Number of Acres in Subdivision _____

I affirm that I am the developer or owner of the property described above or will be the developer or owner at the time the lots are offered for sale to the public, or that I am the agent authorized by the developer or owner to complete this statement.

I further affirm that the statements contained in all documents submitted with the request for an Advisory Opinion are true and complete.

_____
(Date)

_____
(Signature)

_____
(Title)

Warning: Section 1418 of the Housing and Urban Development Act of 1968 (83 Stat. 598, 15 U.S.C. 1717 as amended) provides: "Any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * *, shall upon conviction be fined not more than $10,000.00 or imprisoned not more than five years, or both."

§ 1710.18 No action letter.

(a) If the sale of lots is subject to the registration requirements of the Act but the circumstances of the sale are such that no affirmative action to enforce the registration requirements is needed to protect the public interest or prospective purchasers, the Secretary may issue a No Action Letter.

(b) To obtain a No Action Letter a developer must submit a request which includes a thorough description of the proposed transaction, the property involved, and the circumstances surrounding the sale.

(c) The issuance of a No Action Letter will not affect any right which a purchaser has under the Act, and it will not limit future action by the Secretary if there is evidence to show that affirmative action is necessary to protect the public interest or prospective purchasers. In no event will a No Action Letter be issued after the sale has occurred.

3. Section 1710.22(a)(2) is revised to read as follows:

§ 1710.22 Statement of record—initial or consolidated.

(a) * * *

(2) If a developer buys from another developer 100 or more lots from an existing registration, the new developer, or owner, may have to submit a new initial Statement of Record and receive an effective date covering the acquired lots prior to selling or leasing any of those lots.

* * * * *

§§ 1710.52–1710.59 [Reserved]

4. Sections 1710.52–1710.59 are deleted and reserved.

5. Section 1710.102(k) is revised to read as follows:

§ 1710.102 General instructions for completing the statement of record.

* * * * *

(k) *Modification of Format or Content.* The Secretary may require or permit modification to the content and format of the Property Report to include additional information, to modify or omit required information or to change the sequence or position of information when such changes are deemed to be in the public interest or for the protection of purchasers.

* * * * *

6. Part 1710 is amended by adding § 1710.103 to read as follows:

§ 1710.103 Developer obligated improvements.

(a)(1) If the developer represents that it will provide or complete roads or facilities for water, sewer, gas, electricity or recreational amenities, it shall be contractually obligated to do so (See § 1715.15(f)) and the obligation shall be clearly stated in the Property Report portion. While the developer may disclose relevant facts about completion, the obligation to complete cannot be conditioned, other than as provided for in § 1715.15(f), and an estimated completion date (month and year) must be stated in the Property Report.

(2) If a party other than the developer is responsible for providing or completing roads or facilities for water, sewer, gas, electricity or recreational amenities, that entity shall be clearly identified in §§ 1710.110; 1710.111 or 1710.114, as applicable. A statement for that facility or amenity shall be included in the proper Section of the Property Report portion that the developer is not responsible for providing or completing the facility or amenity and can give no assurance that it will be completed or available for use.

7. Section 1710.105 is revised to read as follows:

§ 1710.105 Cover page.

The cover page of the Property Report shall be prepared in accordance with the following directions:

(a) The margins shall be at least 1 inch.

(b) The next 3 inches shall contain a warning, centered, in ½ inch capital letters in red type with ¼ inch space between the lines which reads as follows:

READ THIS PROPERTY REPORT BEFORE SIGNING ANYTHING

(c) The remainder of the page shall contain the following paragraphs beginning ¼ inch below the last line of the warning:

This Report is prepared and issued by the developer of this subdivision. It is *not* prepared or issued by the Federal Government.

Federal law requires that you receive this Report prior to your signing a contract or agreement to buy or lease a lot in this subdivision. However, NO FEDERAL AGENCY HAS JUDGED THE MERITS OR VALUE, IF ANY, OF THIS PROPERTY.

If you received this Report prior to signing a contract or agreement, you may cancel your contract or agreement by giving notice to the seller any time before midnight of the seventh day following the signing of the contract or agreement.

If you did not receive this Report before you signed a contract or agreement, you may cancel the contract or agreement any time within two years from the date of signing.

Name of Subdivision ———————
Name of Developer ———————
Date of This Report ———————

(d)(1) If the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the Cover Page must reflect the requirements of the longer period, rather than the seven days.

(2)(i) If a deed is not delivered within 180 days of the signing of the contract or agreement of sale or unless certain provisions are included in the contract or agreement, the purchaser is entitled to cancel the contract within two years from the date of signing the contract or agreement.

(ii) The deed must be a warranty deed, or where such a deed is not commonly used, a similar deed legally acceptable in the jurisdiction where the lot is located. The deed must be free and clear of liens and encumbrances.

(iii) The contract provisions are:

(A) A legally sufficient and recordable lot description; and

(B) A provision that the seller will give the purchaser written notification of purchaser's default or breach of contract and the opportunity to have at least 20 days from the receipt of notice to correct the default or breach; and

(C) A provision that, if the purchaser loses rights and interest in the lot because of the purchaser's default or breach of contract after 15% of the purchase price, exclusive of interest, has been paid, the seller shall refund to the purchaser any amount which remains from the payments made after subtracting 15% of the purchase price, exlusive of interest, or the amount of the seller's actual damages, whichever is the greater.

(iv) If a deed is not delivered within 180 days of the signing of the contract or if the necessary provisions are not included in the contract, the following statement shall be used in place of any other recision language:

Under Federal law you may cancel your contract or agreement of sale any time within two years from the date of signing.

(e) At the time of submission, the developer may indicate its intention to comply with the red printing by an illustration or by a statement to that effect.

(f) The "Date of This Report" shall be the date on which the Secretary allows the Statement of Record to become effective and shall not be entered until the submission has become effective.

8. Sections 1710.114 is amended by revising paragraphs (a) (1) and (2), paragraph (b)(1) and paragraph (c)(1) to read as follows:

§ 1710.114 Recreational facilities.

(a) *Recreational Facilities To Be Covered.* (1) Unless otherwise indicated, all information required by paragraphs (b) and (c) of this section shall be provided for only those recreational facilities which (1) the developer is contractually responsible to provide or complete and which are:

(i) Within, adjacent or contiguous to the subdivision, and;

(ii) Maintained substantially for the use of lot owners; or

(2) for which a third party is responsible and which are:

(i) Within, adjacent or contiguous to the subdivision, and;

(ii) Maintained substantially for the use of lot owners.

* * * * *

(b) * * *

(1) *Facility.* Identify each recreational facility. Identify closely related facilities (e.g., swimming pool and bathhouse) separately only if their availability dates differ. If any recreational facility is not owned by the developer, insert a warning below the chart phrased substantially as follows:

"We do not own the (name of facility or facilities) so we can not assure its (their) continued availability.

* * * * *

(c) * * *

(1) *Constructing the Facilities.* If the facilities are not complete, indicate who is responsible for the construction of the facilities. Indicate whether the purchaser will be required to pay any of the cost of construction of these facilities (estimate and disclose such cost, if any).

* * * * *

9. Section 1710.208(c)(4) is revised to read as follows:

§ 1710.208 General information.

* * * * *

(c) * * *

(4) State whether the owner of the land, the developer, its parent, subsidiaries or any of the principals, officers or directors of any of them are directly or indirectly involved in any other subdivision containing 100 or more lots. If so, identify the subdivision by name, location, and OILSR number, if any.

* * * * *

10. Section 1710.209(c)(1) is revised to read as follows:

§ 1710.209 Title and land use.

* * * * *

(c) *Forms of Acceptable Title Evidence.* (1) An original or a copy of a

signed owner's policy of title insurance, a mortgagee's policy of title insurance, a certificate of title, or similar instrument issued by a title company authorized by law to issue such instruments in the state in which the subdivision is located. Title binders or title commitments are not acceptable nor are title insurance policies, certificates of title or similar instruments which limit insurance and negligence liability to amounts less than the market value of the subject land at the time of its acquisition by the subdivision owner; or

* * * * *

11. 24 CFR 1710.209(f)(3) is revised to read as follows:

§ 1710.209 Title and land use.

* * * * *

(f) * * *

(3)(i) Submit copies of all forms of contracts or agreements and notes to be used in selling or leasing lots. The contracts or agreements, including promissory notes, must contain the following language in boldface type (which must be distinguished from the type used for the rest of the contract) on the face or signature page above all signatures:

You have the option to cancel your contract or agreement of sale by notice to the seller until midnight of the seventh day following the signing of the contract or agreement.

If you did not receive a Property Report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of your signing the contract or agreement, the contract or agreement of sale may be cancelled at your option for two years from the date of signing.

(ii) If the purchaser is entitled to a longer revocation period by operation of State law or the Act, that period becomes the Federal revocation period and the contract or agreement must reflect the requirements of the longer period, rather than the seven days. This language shall be consistent with that shown on the Cover Page (see § 1710.105).

(iii) The revocation provisions may not be limited or qualified in the contract or other document by requiring a specific type of notice or by requiring that notice be given at a specified place.

(iv) If it is represented that the developer will provide or complete roads or facilities for water, sewer, gas, electric service or recreational amenities, the contract shall contain a provision that the developer is obligated to provide or complete such roads, facilities and amenities (see § 1715.15(f)).

* * * * *

12. Section 1710.212 is amended by revising paragraph (b)(3) and (4). As amended, paragraph (b) reads as follows:

§ 1710.212 Financial information.

* * * * *

(b) Complete the following format:

(1) Estimated date for full completion of amenities

(2) Projected date for complete sell out of subdivision

(3) Cost and expense recap for lots included in this Statement of Record:

[If the subdivision or common promotional plan contains, or will contain, 1000 or more lots, furnish this information in its entirety. If the subdivision or common promotional plan contains, or will contain, less than 1,000 lots, only paragraphs (b)(3)(iii) and (b)(3)(iv) need be completed.]

(i) Land acquisition cost or current fair market value of land.

(ii) Development and improvement costs (include the estimated cost of such items as roads, utilities, and amenities which the developer will incur).

(iii) Estimated Marketing and Advertising Costs.

(iv) Estimated sales commission.

(v) Interest (include cost in financing the land purchase, improvements, or other borrowings).

(vi) Estimated other expenses (include general costs, administrative costs, profit, etc.).

(vii) Total.

(4). Total land sales revenue:

(i) Estimated total land sales income.

(ii) Estimated other income.

(iii) Total income.

13. § 1710.212(e)(3) is revised to read as follows:

§ 1710.212 Financial information.

* * * * *

(e) * * *

(3) The exceptions are:

(i) The aggregate sales price of all lots offered pursuant to a common promotional plan equals $500,000.00 or less; or

(ii) The aggregate sales prices of all lots offered pursuant to a common promotional plan equals $500,000.00 but equals less than $1,500,000.00 and the sales contract provides for delivery of a deed within 180 days of the date of the contract which conveys title free of any mortgage or lien or the developer has filed an Assurance of Title Agreement with OILSR with any down payments or deposits being held in an escrow or trust account, or;

(iii) All facilities, utilities and amenities proposed by the developer in the Property Report or sales contract have been completed so that the lots included in the Statement of Record are immediately usable for the purpose of which they are sold and the sales contract provides for delivery of a deed within 180 days of the date of the contract which conveys title free of any mortgage or lien or the developer has filed an Assurance of Title Agreement with OILSR with any down payments or deposits being held in an escrow or trust account, or;

(iv) All of the following conditions are met:

(A) The developer is contractually obligated to the purchaser to complete all facilities, utilities and amenities proposed by the developer in the Property Report and sales contract so that all lots included in the Statement of Record will be usable for the purpose for which they are sold by the dates set out in the Property Report or contract, and;

(B) The developer has made financial arrangements, such as the posting of surety bonds (corporate or individual promissory notes or bonds are not acceptable), irrevocable letters of credit or the establishment of escrow or trust accounts, which assure the completion of all facilities, utilities and amenities proposed by the developer in the Property Report or contract, and;

(C) The sales contract provides for the delivery of a deed within 180 days of the date of the contract which conveys title free of any mortgage or lien, or the developer has filed an assurance of Title Agreement with OILSR, and;

(D) Any deposits or down payments are held in an escrow or trust account.

[The term "conveys title free of any mortgage or lien" in these exceptions is not intended to prohibit the taking of an instrument as security for the lot purchase price after title is conveyed.]

14. Section 1710.219 is revised to read as follows:

§ 1710.219 Affirmation.

The following affirmation shall be executed by the senior executive officer or a duly authorized agent:

I hereby affirm that I am the Senior Executive Officer of the developer of the lots herein described or will be the Senior Executive Officer of the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by the Senior Executive Officer of such developer to complete this statement (if agent, submit written authorization to act as agent); and,

That the statements contained in this Statement of Record and any supplement hereto, together with any documents submitted herein, are full, true, complete, and correct; and,

That the developer is bound to carry out the promises and obligations set forth in this Statement of Record and Property Report or I have clearly stated who is or will be responsible; and

That the fees accompanying this submission are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

(Date)

(Signature)

(Corporate seal if applicable)

(Title)

Warning: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a Statement of Record filed under, or in a Property Report issued pursuant to this title, makes any untrue statement of a material fact * * *, shall upon conviction be fined not more than $10,000.00 or imprisoned not more than 5 years, or both."

§ 1710.400 [Reserved]

15. Section 1710.400 is deleted and reserved.

16. Part 1710 is amended by adding a new subpart C to read as follows:

Subpart C—Certification of Substantially Equivalent State Law

§ 1710.500 General.

(a) This subpart establishes procedures and criteria for certifying State land sale or lease disclosure programs and State land development standards programs. The purpose of State Certification is to lessen the administrative burden on the individual developer, arising where there are duplicative state and federal registration and disclosure requirements, without affecting the level of protection given to the individual purchaser or lessee. If the Secretary determines that a state has adopted and is effectively administering a program that gives purchasers and lessees the same level of protection given to them by the Federal Interstate Land Sales Registration Program, then the Secretary shall certify that state. Developers who accomplish an effective registration with a state in which the land is located after the Secretary has certified the state may satisfy the registration requirements of the Secretary by filing with the Secretary materials designated by agreement with certified states in lieu of the federal Statement of Record and Property Report.

(b) A state that is certified by the Secretary shall be known as the situs certified state for all land located within its borders.

(c) After a developer is effectively registered with the Secretary through a certified state, the Secretary has the same authority over that developer as the Secretary has over developers who file directly with the Secretary. This includes the authority to subpoena information and to examine, evaluate and suspend a developer's registration under Sections 1407(d) and (e) of the Act and § 1710.45(b)(1) and (b)(2) of these regulations.

(d) The prohibitions against the use of the Property Report contained in § 1710.29 apply to state disclosure materials and substantive development standards. In addition, for purposes of this paragraph, references made to the Secretary, OILSR and the Department of Housing and Urban Development in § 1710.29 will include a reference to the equivalent state officer or agency.

(e) The Purchaser's Revocation Rights, Sales Practices and Standards rules contained in Part 1715 of these regulations apply to developers who register with the Secretary through certified States. All of the rules in Part 1715 apply, excepting the disclaimer statement in § 1715.50(a) which is modified to read as follows:

Obtain the Property Report or its equivalent, required by Federal and State law and read it before signing anything. No Federal or State agency has judged the merits or value, if any, of this property.

(f) Developers are obliged to pay filing fees as set forth in § 1710.35 of these regulations.

§ 1710.501 Certification criteria.

(a) *Certification of States Requiring Full Disclosure.* The Secretary shall certify a state when—

(1) It is determined that the laws and regulations of the state applicable to the sale or lease of lots not otherwise exempt under Section 1403 of the Act require the seller of lots to disclose information which is substantially equivalent to or greater than the information required to be disclosed in the Federal Statement of Record; and

(2) The state's administration of such laws and regulations shall provide that the information disclosed is current and accurate. The means for administering the disclosure requirements must include considerations of ample staffing, budgetary provisions for policing functions and that the requisite legal authority be vested in the state agency or agencies responsible for enforcing the laws and regulations of the State land program.

(b) *Certification of States Providing Sufficient Protection.* The Secretary shall certify a state when—

(1) It can be demonstrated that the laws and regulations of the state applicable to the sale or lease of lots not otherwise exempt under Section 1403 provide the purchasers and lessees with protection commensurate with that which is provided by the federal disclosure requirements. That is, a State must develop substantive measures plus disclosure which provides a level of protection that is, at a minimum, comparable to the protection provided by the federal disclosure standard; and

(2) The administration of the laws and regulations provide that all information disclosed is accurate and current. The means for administering the requirements of sufficient protection must include considerations of ample staffing, budgetary provisions for policing functions and that the requisite legal authority be vested in the state agency or agencies responsible for enforcing the laws and regulations of the state land program.

(c) *Applicability to Federal Exemptions.* To be certified a state need not provide protections with regard to the sale or lease of lots that would qualify for a federal exemption. The state may choose at its discretion to provide protections on the sale of lots exempt under the Act. However, for certification a state's laws should, in general, apply to the same lots as would be required to be registered under the Act.

(d) *Equivalency with Federal Disclosure.* In order to be determined as substantially equivalent under paragraph (a) or (b) of this section, a state must provide protection either through disclosure, substantive development standards or some combination thereof in the topics delineated in paragraph (e) of this section. In addition, a state must satisfy requirements of paragraph (f), (g), (h), (i), (j) and (k) of this section.

(e) *Areas of Required Protection.* In order to be certified, a state must require specific protections for consumers with regard to paragraphs (e)(1)–(10) of this section. Protection in these areas can be secured through disclosure, substantive development standards or some combination thereof. Establishing protection provisions in these areas is to be considered essential to the granting of certification to a state. Paragraphs (e)(11)–(15) of this section are considered to be complementary protection provisions which would give additional strength to a state's land program if combined with the required provisions for protection. If the

protection which is required by the items listed below is provided through substantive standards rather than solely disclosure, it is expected that the state will buttress those substantive standards with requirements of performance that are enforceable against developers. The state will designate who shall be responsible for enforcing the commitments made by developers and the method of enforcement to be used.

(1) *Subdivision and Developer Information.* The name of the subdivision, the name and address of the developer or owner, the nature of the offering and the number of lots in the subdivision must be given to the purchaser.

(2) *Method of Sale or Lease.* Information with regard to the: developer's method of sale, type of contract used, type and time frame for delivery of the deed, recordation of contract and deed, whether there is a security arrangement and its description, any escrow arrangement for monies received, title insurance, prepayments, defaults, developer's resale and lot exchange program, time sharing and membership sales must be given to the purchaser.

(3) *Condition of Title.* Information about all liens, encumbrances or mortgages affecting purchasers in the subdivision, the lots covered and the impact on purchasers and lessees in a subdivision should a developer default, and mortgage release provisions must be given to the purchaser.

(4) *Condition and Use of Property.* Information regarding land reservations, unusual or restrictive easements, mineral reservations, land use restrictions, special zoning permits, environmental impact studies which may have been conducted and their results, topographical characteristics, including any subsurface conditions and potentially hazardous natural conditions must be given to purchasers.

(5) *Financial and Legal Information.* Information about the net income and worth of the developer, condition of financial operations at present and in the preceding fiscal year, bankruptcy litigation or other litigation to which the developer is a party or action taken against the developer by a governmental agency which may have a material adverse impact upon its financial condition or its ability to transfer title to a purchaser or to complete promised facilities must be given to purchasers.

(6) *Roads.* Information about access and subdivision roads, type of surface (present and final), completion dates, percentage of completion, buyer's cost and assessment, who is responsible for completion and maintenance and financial assurance of completion must be given to purchasers.

(7) *Water.* Information as to how water is to be supplied, supplier, completion dates, percentage of completion, any financial aussurance of completion, buyer's cost and assessment including hook-up and water hauling costs, who is responsible for completion, quality and quantity, source, capacity of the water system, any intention to transfer the water system and the cost to lot owners or property owners association and any permits or approvals required must be given to purchasers.

(8) *Sewerage Facilities.* Information as to the method used, supplier, completion dates, percentage of completion, any financial assurance of completion, buyer's cost and assessment including hook-up and sewage pumping and hauling, capacity of central system, who is responsible for completion, approvals and permits required, transfer of system to lot owners or property owners association must be given to purchasers.

(9) *Utilities (Gas, Electric, Phone).* Information as to the availability, supplier, purchaser's or lessee's cost, completion date, percentage of completion must be given to purchasers.

(10) *Recreational Facilities.* A list of the facilities and information about estimated date available for use, percentage of completion, any financial assurance or completion, buyer's or lessee's cost and assessment, who is responsible for completion, maintenance, disclosures on facilities which will be leased and/or transferred to the lot owners or property owners' association and who may use the facilities must be given to purchasers.

(11) *Lots being sold or leased.* Information about the legal descriptions of the offering by lot, block and unit number may be given to purchasers.

(12) *Location, size surrounding communities.* Information which describes the county seat, surrounding communities of significant size and services offered, population of the area, road systems and the potential size of the subdivision may be given to purchasers.

(13) *Taxes and Assessments.* Information about payments to property owners's associations, the property owners' association's functions and responsibilities, management of the association, extent of developer control and the purpose of any special improvement district may be given to purchasers.

(14) *Community facilities.* Information about the availability of schools, medical and dental services, postal services, fire and police protection, shopping facilities and public transporation may be given to purchasers.

(15) *Platting.* Information which reports whether the subdivision's plats have been approved by regulatory authorities, whether the plats have been recorded and whether the survey and staking of each lot has been done and the cost that may be passed on to purchasers may be given to purchasers.

(f) The disclosure law of the State must be consistent with, but not necessarily identical to, the requirements of 15 U.S.C. 1703(a)(2)(D). This provision makes it unlawful for a developer to represent in any manner that it will provide or complete roads, sewers, water, gas or electric service or recreational amenities without stipulating in the contract of sale or lease that such services or amenities will be provided. Developers registered with the Secretary through a certified state are subject to this requirement. Consequently, the State may itself impose this substantive requirement upon developers. In any event, the disclosure documents approved by any certified state must meet the federal standard with respect to subdivision improvements. Developers are not allowed to represent that they will provide or complete roads, water, sewer, gas or electric facilities or recreational facilities unless the contract or agreement for sale obligates the developer to complete the facilities.

(g) In order to be determined substantially equivalent to the federal disclosure requirement, the state law and regulations must require that prospective purchasers and lessees receive, prior to or at the time of the signing any contract or agreement for purchase or lease, the applicable disclosure document containing complete and accurate information on the subdivision and the developer. In addition, state law or regulation must require developers to file amendments if any change occurs in any representation of material fact required to be stated in the disclosure materials filed with the state. The state law or regulation regarding amendments should entail requirements equivalent to those stated in § 1710.23 of these regulations.

(h) For a state to be certified, it must be demonstrated that the state has or will have adequate full-time professional and clerical staff in its regulatory agency or agencies responsible for regulating the sale or lease of lots within its jurisdiction; that there is a budget approved for that staff which will permit them to fulfill the

administrative and enforcement responsibilities; and that the staff have adequate legal authority to take official action in cases falling within the purview of state law and regulation.

(i)(1) If a state certified under this section modifies or amends any law, regulation or administrative procedure with regard to subdivision development standards, it shall so notify HUD by registered or certified mail within 30 days after the modification or amendment has been enacted or promulgated. The state must submit to HUD new copies of its laws, regulations, rulings, administrative provisions and legal opinions, as amended, mandating the disclosure of information or establishment of development standards regarding land sales.

(2) Should any changes occur as set forth above and result in a measurable alteration of the protection provided to consumers by the state, the Secretary may, upon examination of those changes, re-evaluate the certification status of the state's land program.

(j) Once a state is certified and the state's disclosure document has become the Federal Property Report, the Secretary may require, as a condition of certification, a cover page, similar to the one presently used for federal filings, to be attached to the certified state filings. The form and substance of the federal cover page is explained in § 1710.105. If a certified state filing does not have a cover page, the Secretary may require that, as a condition of certification, the state include information regarding the federal revocation period within the body of the state disclosure document.

(k) The Secretary shall require all certified states to submit to the Secretary a copy of any notice of suspension which the state has issued to a developer at the time the notice is sent to the developer.

§ 1710.502 Application for certification of State land sales program.

(a) In order to be certified, a state must submit an application to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. The application should be titled "Application for Certification of State Land Sales Program." The application should use the section format and contain the information set out below:

Application for Certification of State Land Sales Program Submitted by: Name, address and telephone number of state agency and person to contact.

Section 1. Legal Authorities. This section should contain copies of all laws and regulations (including rulings and legal opinions having the effect of law) establishing and interpreting disclosure requirements or substantive development standards with regard to land sales and leases including all administrative provisions and all provisions establishing exemptions from the rule. Only those legal authorities which deal with land sales and leases subject to the federal disclosure requirements need be submitted.

Section 2. Sample Copies of Material to be Submitted by Developers to the State. This section should contain sample copies of all materials required to be filed with the agency responsible for regulating the sale of lots in subdivisions and sample copies of all material required to be provided to purchasers and lessees and prospective purchasers and lessees.

Section 3. Methods of Administration and Enforcement. This section should contain a detailed statement on the methods and scope of the state's administration and enforcement procedures to include:

(a) The name and address of the agency responsible for regulating the sale or lease of lots in subdivisions.

(b) The staffing capacity of the responsible State Regulatory Agency. There should be included: (1) an organizational chart which describes not only the internal structure of the regulatory agency (agencies) but also the relationship of that agency to other decision-making centers; (2) a description of the functions and duties of the full-time staff; (3) the eligibility criteria, i.e., training, education and experience, for principal members of the staff; and (4) the formula used in calculating the necessary number of staff members to fulfill administrative, investigative and enforcement responsibilities. The state should submit for the Secretary's review the actual number of complaints received, enforcement actions taken, and investigations initiated for the past three years.

(c) A description of the anticipated additional staff, if any, and their duties and qualifications.

(d) The method and scope of investigation and enforcement to be used. The state should demonstrate the procedures to be followed from the time a complaint is received until the completion of action on that complaint and the kinds of sanctions which may be involved.

(e) Included should be an accounting of the number of new filings received per year for the past three years, the number of amendments received per year, and the total number of active filings.

Section 4. Assertion of Equivalency. This section should contain a detailed statement supporting the state's claim that its land program provides purchasers and lessees through disclosure, substantive development standards or combination thereof, protection substantially equivalent to the protection provided for them by Federal law.

(b) Upon receiving an application for certification, the Secretary will publish a Notice of Application in the **Federal Register.** The purpose of this public notice is to give other certified states and other interested parties an opportunity to review and comment on applications and to enhance consistency among states which are certified. Person(s) interested in receiving application materials for review and comment purposes may request them from the Secretary. Comments should be submitted no later than 30 days after the Notice of Application has been published.

§ 1710.503 Notice of Certification.

(a) If the Secretary determines that a state qualifies for certification under § 1710.501(a) or (b), the Secretary shall so notify the state in writing. The state will be effectively certified under the section and as of the date specified in the notice.

(b) If the Secretary determines that a state does not meet the standards for certification, the Secretary shall so notify the state in writing. The notice will specify particular changes in state law, regulations or adminstration that are needed to obtain certification. The Secretary shall not be bound in advance to certify a state that makes the suggested changes if other deficiencies become apparent at a later time.

(c) The Secretary's final determination to accept or reject a State's Application for Certification of Land Sales Program shall be published in the **Federal Register.**

(d) A state's certification will remain in effect until it is voluntarily suspended by the state or withdrawn by the Secretary. A state can voluntarily suspend its certification by notifying the Secretary in writing. The suspension will take effect as of the date and time specified in the notice to the Secretary, or upon receipt by the Secretary if no date is specified. The Secretary may withdraw certification as provided in Section 1710.505.

§ 1710.504 Cooperation among certified states and between certified states and the secretary.

(a) By filing an Application for Certification of State Land Sales Program pursuant to § 1710.502, a state agrees that, if it is certified by the Secretary, it will:

(1) Accept for filing and allow to be distributed as the sole disclosure document, a disclosure document currently in effect in the situs certified state. Only those documents filed with the situs state after certificaton by the Secretary must automatically be accepted by other certified states;

(2) Certify copies of all disclosure documents, amendments and consolidations filed with it by developers of land located within its borders for and as needed by

developers required to submit certified copies to the Secretary and all other certified states. The certification shall indicate whether the documents are currently in effect. The certification should state as follows:

The (indicate the State Department of Real Estate or other appropriate entity) has reviewed the attached materials and finds they are true copies of (1) the (indicate Property Report or other similar state accepted document or amendment to such document) for (indicate the name of the subdivision), made effective by the State of ———— on ———— (give date) and still in effect; and (2) the supporting documentation upon which such (indicate the document or amendment) is based.

Signature

(3) Assist and cooperate with the Secretary and other certified states by requiring that developers of land within its borders amend disclosure documents if any change occurs in any representation of material fact required to be stated in the disclosure documents, including a change resulting from the developer's compliance with the requirements of the law in another certified state. The state shall require developers to send certified copies of the amended documents to the Secretary and requesting certified states. All amendments to such materials, which reflect changes in material facts regarding the subdivision, shall be submitted to the situs certified state authorities within 15 days of the date on which the developer knows, or should have known, of such change. Certified copies of the disclosure documents shall be submitted by the developer to the Secretary and the other certified states within 15 days after it becomes effective under the situs certified state laws.

(4) Continue to effectively operate its Land Sales Program as that Program is described in the Application for Certification and as it was certified by the Secretary.

(5) Assist and cooperate with the Secretary by monitoring the sales practices of developers registered with it directly or through another certified state, and by reporting to the Secretary any violations of the Act, including but not limited to the required contract provisions, revocation rights and anti-fraud provisions of 15 U.S.C. 1703, or the regulations.

(b) A state required to accept the disclosure documents of another situs certified state pursuant to paragraph (a)(1) of this section, may, in its discretion, require the developer to furnish it with copies certified pursuant to paragraph (a)(2) of this section.

(c) No state shall be prevented from establishing substantive or disclosure requirements which exceed the federal standard provided that such requirements are not in conflict with the Act or these regulations. For example, a certified state may impose additional disclosure requirements on developers of land located within its borders but may not impose additional disclosure requirements on developers whose disclosure documents it is required to accept pursuant to paragraph (a)(1) of this section. However, a certified state may impose additional nondisclosure requirements on out of state developers even though the developer is registered in the certified state in which the land is located.

(d) After a developer is effectively registered with a certified state through a situs certified state, either or both certified states may exercise full enforcement authorities and powers over that developer according to applicable law and regulations.

(e) The Secretary shall cooperate with the certified states by offering a forum for nonbinding arbitration of disputes between two or more certified States arising out of the State Certification Program.

§ 1710.505 Withdrawal of State certification.

(a) The Secretary shall periodically review the laws, regulations and administration thereof, of a certified state. If the Secretary finds that, taken as a whole, the laws, regulations or administration thereof, no longer meet the requirements of Subpart C, then the Secretary may issue a notice to withdraw the certification of that state.

(b) The notice of proceedings to withdraw a state's certification will be issued to the state by the Secretary pursuant to § 1720.236. The Secretary may, after notice and after an opportunity for a hearing, pursuant to § 1720.237, issue an order withdrawing certification.

In the event that a withdrawal order is issued, the order shall remain in effect until the state has amended its laws, regulations or the administration thereof or has otherwise complied with the requirements of the order. When the state has complied with the requirements of the order, the Secretary shall so declare and the withdrawal order shall cease to be effective.

(c) Withdrawal orders issued pursuant to this subsection will be effective as of the date the order is received by the state. The withdrawal order shall be published in the **Federal Register.**

(d) The rules of Chapter IX of 24 CFR Part 1720, Subpart D will generally apply to hearings on withdrawal of a state's certification.

§ 1710.506 State/Federal filing requirements.

(a)(1) If the Secretary has certified a state under § 1710.501, the Secretary shall accept for filing disclosure materials or other acceptable documents which have been approved by the certified state within which the subdivision is located. Only those filings made by the developer with the state after the state was certified by the Secretary shall be automatically accepted by the Secretary.

(2) Retroactive application of the effectiveness of state's certification to a specified date may be granted on a state-by-state basis, where the Secretary determines that retroactive application will not result in automatic federal registration of any state filing that has not met the requirements of the certified state laws.

(b) For a developer to be registered with the Secretary, the developer shall file with the Secretary a state certified copy of the Property Report or its equivalent, and any other documentation as stipulated in the Secretary's Notice of Certification to the state.

(c) The documents and materials filed under paragraph (b) of this section will be automatically effective as the federal Statement of Record and Property Report after these materials and the proper filing fee have been received by the Secretary.

(d) The Secretary has authority pursuant to § 1710.45(b)(1) and (b)(2) to suspend individual filings which fail to meet the requirements of the certified state's law or regulations or the standards in the certification agreement whether or not the state agency has initiated a similar action.

(e)(1) State accepted materials filed with the Secretary pursuant to this section must be amended to reflect any amendment to such materials made effective by the state. All amendments to such materials must be submitted to the Secretary within 15 days after becoming effective under the applicable state laws. Amendments are automatically effective upon their receipt by the Secretary and the provisions of § 1710.45(b)(1) and (2) apply to amendments filed under this section.

(2) Amendments shall include or be accompanied by:

(i) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment and referring to that section

and page of the material which is being amended, and;

(ii) A signed state acceptance certification substantially the same as that required by § 1710.504(a)(2).

(f) If a certified state suspends the registration of a particular subdivision for any reason, the subdivision's federal registration with the Secretary shall be automatically suspended as a result of the state action. No action need be taken by the Secretary to effect the suspension.

(g) A state is certified only with regard to land located within the state borders. The Secretary is not required to accept filings which have been accepted by a certified state if the land which is the subject of the filing is not located within that certified state. For example, if State A is certified by the Secretary and State B is not, the Secretary is not required to accept filings from State B simply because State A accepts filings from State B.

§ 1710.507 Effect of suspension or withdrawal of certification granted under § 1710.501(a): Full disclosure requirement.

(a) If a state certified under § 1710.501(a) suspends its own certification or has its certification withdrawn under § 1710.505, the federal disclosure materials accepted and made effective by the Secretary, pursuant to § 1710.506, prior to the suspension or withdrawal shall remain in effect unless otherwise suspended by the Secretary.

(b) In the event that there is a change in a material fact with regard to a subdivision that remains registered under the provisions of paragraph (a), the developer shall file a new registration with the Secretary meeting the requirements of the then applicable federal registration regulations. Modifications of the federal format may be used as specified by the Secretary.

§ 1710.508 Effect of suspension of certification granted under § 1710.501(b): Sufficient protection requirement.

(a) If a state certified under § 1710.501(b) suspends its own certification or has its certification withdrawn under § 1710.505, the effectiveness of the federal disclosure materials accepted and made effective by the Secretary, pursuant to § 1710.506, prior to the suspension or withdrawal shall terminate ninety (90) days after the notice of withdrawal order is published in the Federal Register as provided in § 1710.505(c).

(b) At the end of the ninety day period, or during the ninety day period in the event that there is a change in material fact with regard to a subdivision that remains registered under the provisions of paragraph (a), the developer shall file a new registration with the Secretary meeting the requirements of the then applicable federal registration regulations. Modifications of the federal format may be used as specified by the Secretary.

§§ 1710.509—1710.551 [Reserved]

§ 1710.552 Previously accepted state filings.

(a) Materials filed with a state and accepted by the Secretary as a Statement of Record prior to January 1, 1981 pursuant to 24 CFR 1710.52–59 (as published in the Federal Register on April 10, 1979) may continue in effect. However, developers must comply with the applicable amendments to the Federal Act and the regulations thereunder. In particular, see §§ 1710.558 and 1710.559, which require that the Property Report and contracts or agreements contain notice of purchaser's revocation rights. In addition see § 1715.15(f), which provides that it is unlawful to make any representations with regard to the developer's obligation to provide or complete roads, water, sewers, gas, electrical facilities or recreational amenities, unless the developer is obligated to do so in the contract.

(b) If any such filing becomes inactive or suspended under the laws of the state, the registration with the Secretary shall be ineffective from that time.

(c) Such Statement of Record may be suspended pursuant to § 1710.45.

(d) The Secretary may refuse to accept any particular filing under this section when it is determined that acceptance is not in the public interest.

(e) The Secretary may require such changes, additional information, documents or certification as the Secretary determines to be reasonably necessary or appropriate in the public interest.

§§ 1710.553—1710.555 [Reserved]

§ 1710.556 Previously accepted state filings—Amendments and consolidations.

(a) *Amendments.* (1) *General Requirements.* State accepted materials, filed with the Secretary pursuant to § 1710.552 shall be amended to reflect any amendment to such materials made effective by the state or any change of a material fact regarding the subdivision. All amendments to such materials, which reflect changes in material facts regarding the subdivision, shall be submitted to the state authorities within 15 days of the date on which the developer knows, or should have known, of such change and to the Secretary within 15 days after it becomes effective under the applicable State laws. However, such amendment shall not be effective as a federal registration until the Secretary has determined that the amendment meets all applicable requirements of these regulations.

(2) Amendments shall include or be accompanied by:

(i) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment and referring to that section and page of the Statement of Record which is being amended, and;

(ii) All amended pages of the state accepted materials filed with the Secretary. These pages shall be retyped with their amendments. Each such page shall have its date of preparation in the lower right hand corner, and;

(iii) A signed state acceptance certification, and;

(iv) The appropriate fees as indicated in § 1710.35.

(b) *Consolidations.* (1) *When consolidations allowed.* If lots are to be registered pursuant to § 1710.552 which are in the same common promotional plan with other lots already registered with the Secretary, then new consolidated state accepted materials including such lots may be filed with the Secretary as a Statement of Record following the format of the previously accepted filing.

(2) Consolidated Statements of Record shall include or be accompanied by:

(i) State accepted consolidation materials which are also acceptable to the Secretary as a Statement of Record (state property report inclusive). These state accepted consolidation materials shall cover all lots previously registered in the common promotional plan except those deleted pursuant to other provisions in these regulations. These materials shall also include information and items required for state accepted materials filed as an initial registration Statement of Record, except that, supporting documentation in materials previously made effective by the Secretary for other lots in the subject common promotional plan may be incorporated by reference into the new consolidation materials submitted as a Statement of Record. However, such documentation may be incorporated by reference only if it is applicable to the new consolidated lots as well as to the previously registered lots.

(ii) A signed state acceptance certification.

(iii) The appropriate fees as indicated in § 1710.35.

(c) *Effective Date—State Filing.* The effective dates of state materials filed as amendments and consolidated

Statements of Record shall be determined in accordance with the provisions of § 1710.21.

(d) *Amendments and Consolidations for Previously Accepted State Filing in Certified States.* If at the time a developer would otherwise make an amendment or consolidation pursuant to this section, a state has been certified with the Secretary pursuant to § 1710.503, then the developer must file such amendment or consolidation pursuant to Section 1710.505 rather than this section.

§ 1710.557 [Reserved]

§ 1710.558 Previously accepted state filings—Notice of revocation rights on property report cover page.

(a)(1) The cover page on Property Reports for filings made with the Secretary pursuant to § 1710.552 shall be prepared in accordance with § 1710.105 and shall include the following paragraphs:

If you received this Report prior to signing a contract or agreement, you may cancel your contract or agreement by giving notice to the seller anytime before midnight of the seventh day following the signing of the contract or agreement.

If you did not receive this Report before you signed a contract or agreement, you may cancel the contract or agreement anytime within two years from the date of signing.

(2) If the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the Cover Page must reflect the longer period, rather than the seven days.

(b)(1) If a deed is not delivered within 180 days of the signing of the contract or agreement of sale or unless certain provisions are included in the contract or agreement, the purchaser is entitled to cancel the contract within two years from the date of signing the contract or agreement.

(2) The deed must be a warranty deed, or where such a deed is not commonly used, a similar deed legally acceptable in the jurisdiction where the lot is located. The deed must be free and clear of liens and encumbrances.

(3) The contract provisions are:

(i) A legally sufficient and recordable lot description, and;

(ii) A provision that the seller will give the purchaser written notification of purchaser's default or breach of contract and the opportunity to remedy the default or breach within 20 days of the notice; and

(iii) A provision that, if the purchaser loses rights and interest in the lot because of the purchaser's default or breach of contract after 15 percent of the purchase price, exclusive of interest, has been paid, the seller shall refund to the purchaser any amount which remains from the payments made after subtracting 15 percent of the purchase price, exclusive of interest, or the amount of the seller's actual damages, whichever is the greater.

(4) If a deed is not delivered within 180 days of the signing of the contract or if the necessary provisions are not included in the contract, the following statement shall be used in place of any other rescision language:

Under Federal law you may cancel your contract or agreement of sale any time within two years from the date of signing.

§ 1710.559 Previously accepted state filings—Notice of revocation rights in contracts and agreements.

(a)(1) All contracts or agreements, including promissory notes used in sale of lots for filings made with the Secretary pursuant to § 1710.552, must contain the following language in boldface type (which must be distinguished from the type used for the rest of the contract) on the face or signature page above all signatures:

You have the option to cancel your contract or agreement of sale by notice to the seller until midnight of the seventh day following the signing of the contract or agreement.

If you did not receive a Property Report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of your signing the contract or agreement, this contract or agreement may be revoked at your option for two years from the date of signing.

(2) If the purchaser is entitled to a longer revocation period by operation of State law or the Act, that period becomes the Federal revocation period and the contract or agreement must reflect the longer period, rather than the seven days. The language shall be consistent with that shown on the Cover Page (see § 1710.558).

(b) The above revocation provisions may not be limited or qualified in the contract or other document by requiring a specific type of notice or by requiring that notice be given at a specified place.

§ 1710.560—1710.999 [Reserved]

Part 1715—PURCHASERS' REVOCATION RIGHTS, SALES PRACTICES AND STANDARDS

17. Part 1715 is revised to read as follows:

Subpart A—Purchasers' Revocation Rights

Sec.
1715.1 General.
1715.2 Revocation at time of sale or lease.
1715.3 Revocation—Nondelivery of property report prior to signing of contract.
1715.4 Contract requirements and revocation.
1715.5 Reimbursement.
1715.6–1715.9 [Reserved]

Subpart B—Sales Practices and Standards

1715.10 General.
1715.11– 1715.14 [Reserved]
1715.15 Unlawful sales practices—Statutory provisions.
1715.16–1715.19 [Reserved]
1715.20 Unlawful sales practices—Regulatory provisions.
1715.21–1715.24 [Reserved]
1715.25 Misleading sales practices.
1715.26 [Reserved]
1715.27 Fair housing.
1715.28–1715.29 [Reserved]
1715.30 Persons to whom Subpart B is inapplicable.
1715.31—1715.49 [Reserved]

Subpart C—Advertising Disclaimers

1715.50 Advertising disclaimers; subdivisions registered and effective with HUD.
1715.51–1715.999 [Reserved]

Authority: Sec. 1419, Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 598; 15 U.S.C. 1718; Sec. 7(d) Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Subpart A—Purchasers' Revocation Rights

§ 1715.1 General.

The purpose of this subpart is to enumerate the conditions under which purchasers may exercise revocation rights. If more than one document of sale is used in a sale or lease transaction, the revocation period required to be set forth in the document starts at the time of signing of the first document.

§ 1715.2 Revocation at time of sale or lease.

All purchasers have the option to revoke a contract or lease with regard to a lot not otherwise exempt under §§ 1710.5–1710.11 and 1710.14 until midnight of the seventh day following the signing of a contract or agreement. If a purchaser is entitled to a longer revocation period by operation of State law or the Act, that period becomes the Federal revocation period rather than the seven days. All contracts and agreements (including promissory notes) for lot sales and leases must clearly state that the longer revocation period is available to purchasers.

§ 1715.3 Revocation—Non-delivery of property report prior to signing of contract.

Purchasers may revoke contracts and agreements (including promissory notes) within two years from the date of signing the contract or agreement if the

required Property Report was not given to the purchaser before the signing of the contract or agreement. A statement providing for this right of revocation must be contained in the contract or agreement and any promissory notes.

§ 1715.4 Contract requirements and revocation.

(a) A contract or agreement, including a promissory note, for the sale or lease of a lot not exempt under §§ 1710.5–1710–16 of this chapter may be revoked by a purchaser within two years from the date of signing the contract or agreement if the contract or agreement did not include:

(1) A clear description of the lot in a form acceptable for recording by the appropriate public official responsible for maintaining land records in the jurisdiction in which the lot is located;

(2) A provision requiring the seller to notify a purchaser in writing as to any default or breach of contract or agreement (including promissory notes) for which the purchaser is responsible. The contract must also contain a provision which allows at least 20 days from the date the notice is received for the purchaser to remedy the default or breach of contract or agreement;

(3) A provision which states that if a purchaser has paid at least 15% of the purchase price (excluding any interest owed) at the time of default or breach of contract (including promissory notes) and loses rights and interest in the lot due to that default, the purchaser may be entitled to a refund. The provision must state that the seller must refund to the purchaser whatever amount remains after (i) subtracting 15% of the purchase price of the lot (excluding interest owed) at the time of the default or breach of contract or agreement, or (ii) subtracting the amount of damages incurred by the seller due to the default or breach of contract, whichever is greater.

(b) For the purposes of this section, (1) "Purchase price" means the cash sales price of the lot shown on the contract; (2) "Damages incurred by the seller or lessor" means actual damages resulting from the default or breach as determined by the law of the jurisdiction governing the contract. However, no elements of actual damage may be specified in the contract or agreement. A liquidated damages clause not exceeding 15% of the purchase price of the lot, excluding any interest owed, may be specified.

(c) The contractual requirements of § 1715.4 do not apply to the sale of a lot for which, within 180 days after the signing of the sales contract, the purchaser receives a warranty deed or, where warranty deeds are not commonly used, its equivalent under state law.

§ 1715.5 Reimbursement.

If a contract or agreement (including a promissory note) is revoked pursuant to §§ 1715.2, 1715.3 or 1715.4, the purchaser shall be entitled to all money paid under the contract or agreement. The purchaser must tender to the developer an instrument conveying his or her rights and interests in the lot and the lot itself in a condition which is substantially similar to the condition in which they were conveyed or purported to be conveyed to the purchaser. If the purchaser cannot convey the lot in substantially similar condition, the developer may subtract from the amount paid by the purchaser any diminished value in the lot occasioned by the acts of the purchaser.

§ 1710.6—1710.9 [Reserved]

Subpart B—Sales Practices and Standards

§ 1715.10 General.

"Sales practices" means any conduct or advertising by a developer or its agents to induce a person to buy or lease a lot. This subpart describes certain unlawful sales practices and provides standards to illustrate what other sales practices are considered misleading in light of certain circumstances in which they are made and within the context of the overall offer and sale or lease.

§ 1715.11—1715.14 [Reserved]

§ 1715.15 Unlawful sales practices—Statutory provisions.

In selling, leasing or offering to sell or lease any lot in a subdivision it is an unlawful sales practice for any developer or agent, directly or indirectly, to:

(a) Employ any device, scheme or artifice to defraud.

(b) Obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or the subdivision. It is not necessary for a developer to say everything about the subdivision in each separate contact with the purchaser, but what the developer does choose to say must not omit important facts that would be needed so that a purchaser would not be misled.

For example, a Property Report description of a lake or an advertisement for "lakeside property" which omits to state that the lake is dry for six months of the year would be misleading and a likely violation.

(c) Engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon a purchaser.

(d) Fail to furnish a purchaser with a printed Property Report (when the subdivision is required to be registered) in advance of the purchaser's signing a contract or agreement.

(e) Use a Statement of Record or Property Report (when the subdivision is required to be registered) which contains an untrue statement of material fact or omits to state a material fact required to be stated therein.

(f) Represent in any manner that roads, sewers, water, gas or electric service, or recreational amenities will be provided or completed by the developer unless there is a contractual provision expressly obligating the developer to provide or complete such services or amenities. Thus, if a developer advertises it will provide roads in the subdivision or shows a purchaser a subdivision master plan and indicates that the developer is providing the road system shown on that plan, there must be a road completion covenant in the contract. If there is no such covenant, the developer may not represent that it will provide the roads.

(1) The contractual covenant to provide or complete the services or amenities may be conditioned only upon grounds that are legally supportable to establish impossibility of performance in the jurisdiction where the services or amenities are being provided or completed.

(2) Contingencies such as Acts of God, strikes, or material shortages are recognized as permissible to defer completion of services or amenities.

(3) In creating these contractual obligations developers have the option to incorporate by reference the Property Report in effect at the time of the sale or lease. If a developer chooses to incorporate the Property Report by reference, the effective date of the Property Report being referenced must be specified in the contract of sale or lease.

(g) Display or deliver to purchasers advertising and promotional material which is inconsistent with information required to be disclosed in the Property Report (when the subdivision is required to be registered).

§ 1715.16–1715.19 [Reserved]

§ 1715.20 Unlawful sales practices—Regulatory provisions.

In selling, leasing or offering to sell or lease any lot in a subdivision it is an unlawful sales practice for any developer or agent, directly or indirectly, to:

(a) Give the Property Report to a purchaser along with other materials when done in such a manner so as to conceal the Property Report from the purchaser.

(b) Give a contract to a purchaser or encourage him to sign anything before delivery of the Property Report.

(c) Refer to the Property Report or Offering Statement as anything other than a Property Report or Offering Statement.

(d) Use any misleading practice, device or representation which would deny a purchaser any cancellation or refund rights or privileges granted the purchaser by the terms of a contract or any other document used by the developer as a sales inducement.

(e) Refuse to deliver a Property Report to any person who exhibits an interest in buying or leasing a lot in the subdivision and requests a copy of the Property Report.

(f) Use a Property Report, note, contract, deed or other document prepared in a language other than that in which the sales campaign is conducted, unless an accurate translation is attached to the document.

(g) Deliberately fail to maintain a sufficient supply of restrictive covenants and financial statements or to deliver a copy to a purchaser upon request as required by §§ 1710.109(f), 1710.112(d), 1710.209(g) and 1710.212(i).

(h) Use, as a sales inducement, any representation that any lot has good investment potential or will increase in value unless it can be established, in writing, that:

(1) Comparable lots or parcels in the subdivision have, in fact, been resold by their owners on the open market at a profit, or;

(2) There is a factual basis for the represented future increase in value and the factual basis is certain, and;

(3) The sales price of the offered lot does not already reflect the anticipated increase in value due to any promised facilities or amenities. The burden of establishing the relevancy of any comparable sales and the certainty of the factual basis of the increase in value shall rest upon the developer.

(i) Represent a lot as a homesite or building lot unless:

(1) Potable water is available at a reasonable cost;

(2) The lot is suitable for a septic tank operation or there is reasonable assurance that the lot can be served by a central sewage system;

(3) The lot is legally accessible; and

(4) The lot is free from periodic flooding.

§ 1715.21–1715.24 [Reserved]

§ 1715.25 Misleading Sales Practices.

Generally, promotional statements or material will be judged on the basis of the affirmative representations contained therein and the reasonable inferences to be drawn therefrom, unless the contrary is affirmatively stated or appears in promotional material, or unless adequate safeguards have been provided by the seller to reasonably guarantee the occurrence of the thing inferred. For example, when a lot is represented as being sold by a warranty deed, the inference is that the seller can and will convey fee simple title free and clear of all liens, encumbrances, and defects except those which are disclosed in writing to the prospective purchaser prior to conveyance. The following advertising and promotional practices, while not all inclusive, are considered misleading, and are used to evaluate a developer's or agent's representations in determining possible violations of the Act or Regulations. (In this section "represent" carries its common meaning.)

(a) *Proposed improvements.* References to proposed improvements of any land unless it is clearly indicated that (1) the improvements are only proposed or (2) what the completion date is for the proposed improvement.

(b) *Off-Premises representations.* Representing scenes or proposed improvements other than those in the subdivision unless

(1) it is clearly stated that the scenes or improvements are not related to the subdivision offered; or

(2) in the case of drawings that the scenes or improvements are artists' renderings;

(3) if the areas or improvements shown are available to purchasers, what the distance in road miles is to the scenes or improvements represented.

(c) *Land use representations.* Representing uses to which the offered land can be put unless the land can be put to such use without unreasonable cost to the purchaser and unless no fact or circumstance exists which would prohibit the immediate use of the land for its represented use.

(d) *Use of "road" and "street".* Using the words "road" or "street" unless the type of road surface is disclosed. [All roads and streets shown on subdivision maps are presumed to be of an all-weather graded gravel quality or higher and are presumed to be traversable by conventional automobile under all normal weather conditions unless otherwise shown on the map.]

(e) *Road access and use.* Representing the existence of a road easement or right-of-way unless the easement or right-of-way is dedicated to the public, to property owners or to the appropriate property owners association.

(f) *Waterfront property.* References to waterfront property, unless the property being offered actually fronts on a body of water. Representations which refer to "canal" or "canals" must state the specific use to which such canal or canals can be put.

(g) *Maps and distances.* (1) The use of maps to show proximity to other communities, unless the maps are drawn to scale and scale included, or the specific road mileage appears in easily readable print.

(2) The use of the terms such as "minutes away", "short distance", "only miles", or "near" or similar terms to indicate distance unless the actual distance in road miles is used in conjunction with such terms. Road miles will be measured from the approximate geographical center of the subdivided lands to the approximate downtown or geographical center of the community.

(h) *Lot size.* Representation of the size of a lot offered unless the lot size represented is exclusive of all easements to which the lot may be subject, except for those for providing utilities to the lot.

(i) *"Free" lots.* Representing lots as "free" if the prospective purchaser is required to give any consideration whatsoever, offering lots for "closing costs only" when the closing costs are substantially more than customary, or when an additional lot must be purchased at a higher price.

(j) *Pre-development prices.* References to pre-development sales at a lower price because the land has not yet been developed unless there are plans for development, and reasonable assurance is available that the plans will be completed.

(k) *False reports of lot sales.* Repeatedly announcing that lots are being sold or to make repetitive announcements of the same lot being sold when in fact this is not the case.

(l) *Guaranteed refund.* Use of the word "guarantee" or phrase "guaranteed refund" or similar language implying a money-back guarantee unless the refund is unconditional.

(m) *Discount certificates.* The use of discount certificates when in fact there

is no actual price reduction or when a discount certificate is regularly used.

(n) *Lot exchanges.* Representations regarding property exchange privileges unless any applicable conditions are clearly stated.

(o) *Resale program.* Making any representation that implies that the developer or agent will resell or repurchase the property being offered at some future time unless the developer or agent has an ongoing program for doing so.

(p) *Symbols for conditions.* The use of asterisks or any other reference symbol or oral parenthetical expression as a means of contradicting or substantially changing any previously made statement or as a means of obscuring material facts.

(q) *Proposed public facilities.* References to a proposed public facility unless money has been budgeted for construction of the facility and is available to the public authority having the responsibility of construction, or unless disclosure of the existing facts concerning the public facility is made.

(r) *Non-profit or institutional name use.* The use of names or trade styles which imply that the developer is a nonprofit research organization, public bureau, group, etc., when such is not the case.

§ 1715.26 [Reserved]

§ 1715.27 Fair housing.

(a) Pursuant to Section 804(c) of Title VIII of the Civil Rights Act of 1968, as amended, the Federal Fair Housing law, except as exempted by Section 807, advertising shall not contain any indication of any preference, limitation or discrimination based on race, color, religion, sex or national origin.

(b) All advertising and sales presentations or representation must be consistent with the Advertising Guidelines for Fair Housing published in 37 FR 6700 (4–1–72) and 40 FR 20079 (5–8–75).

(c) Whenever sales activity takes place which is subject to the Fair Housing Law, the HUD approved Fair Housing Poster must be displayed

§ 1715.28—1715.29 [Reserved]

§ 1715.30 Persons to whom subpart B is inapplicable.

Newspaper or periodical publishers, job printers, broadcasters, or telecasters, or any of the employees thereof, are not subject to this subpart unless the publishers, printers, broadcasters, or telecasters (1) have actual knowledge of the falsity of the advertisement or (2) have any interest in the subdivision advertised or (3) also serve directly or indirectly as the advertising agent or agency for the developer.

§ 1715.31—1715.49 [Reserved]

Subpart C—Advertising Disclaimers

§ 1715.50 Advertising disclaimer; subdivisions registered and effective with HUD.

(a) The following disclaimer statement shall be displayed below the text of all printed material and literature used in connection with the sale or lease of lots in a subdivision for which an effective Statement or Record is on file with the Secretary. If the material or literature consists of more than one page, it shall appear at the bottom of the front page. The disclaimer statement shall be set in type of at least ten point font.

Obtain the Property Report required by Federal law and read it before signing anything. No Federal agency has judged the merits or value, if any, of this property.

(b) If the advertising is of a classified type; is not more than five inches long and not more than one column in print wide, the disclaimer statement may be set in type of at least six point font.

(c) This disclaimer statement need not appear on billboards, on normal size matchbook folders or business cards which are used in advertising nor in advertising of a classified type which is less than one column in print wide and is less than five inches long.

(d) A developer who is required by any state, or states, to display an advertising disclaimer in the same location, or one of equal prominence, as that of the federal disclaimer, may combine the wording of the disclaimers. All of the wording of the federal disclaimer must be included in the resulting combined disclaimer.

§ 1715.51—1715.999 [Reserved]

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

18. Part 1720 is amended by adding §§ 1720.236–1720.239 to read as follows:

§ 1720.236 Notice of proceedings to withdraw a state's certification pursuant to § 1710.505 of this chapter.

A proceeding pursuant to § 1710.505 of this chapter is commenced by issuance and service of a notice which shall contain:

(a) An identification of the State certification to which the notice applies.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the basis for the Secretary's determination, pursuant to Section 1710.505, that the State's laws, regulations and the administration thereof, taken as a whole, no longer meet the requirements of Section 1710.501.

(c) A notice of hearing rights of the State under § 1720.237 and of the procedures for invoking those rights.

(d) A notice that failure to file an answer or motion as provided under § 1720.240 will result in an order suspending the State's certification.

§ 1720.237 Hearings—Notice of proceedings pursuant to § 1710.505 of this chapter.

(a) A State, upon receipt of a notice of proceedings issued pursuant to § 1710.505 of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the notice of proceedings. Such request must be filed within 15 days of receipt of the notice of proceedings and must be accompanied by an answer conforming to the requirements of § 1720.245. Filing of a motion for a more definite statement pursuant to § 1720.315 shall alter the period of time to request a hearing in accordance with § 1720.240.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 45 days of receipt of this request. The time and place for the hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) Failure to answer within the time allowed by § 1720.240 or failure to appear at a hearing duly scheduled shall result in an appropriate order under § 1710.505 of this chapter withdrawing the State's certification. Such order shall be effective as of the date of service or receipt.

§ 1720.238 Notice of proceedings to terminate exemptions pursuant to §§ 1710.14 and 1710.16.

A proceeding to terminate a self-determined exemption under § 1710.14 or an exemption order under § 1710.16 is commenced by issuance and service of a notice which shall contain:

(a) In the case of an exemption under § 1710.14, an identification of the developer and subdivision to which the notice applies. In the case of an exemption under § 1710.16, an identification of the exemption order to which the notice applies.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the basis for the Secretary's determination that further exemption from the registration and disclosure requirements is not in the public interest

or that the sales or leases do not meet the requirements for exemption, or both.

(c) A notice of hearing rights of the respondent under § 1720.239 and of the procedures for invoking those rights.

(d) A notice that failure to file an answer or motion as provided under § 1720.240 will result, in the case of a notice issued pursuant to § 1710.14, an order terminating eligibility for the exemption, or, in the case of a notice issued pursuant to § 1710.16, an order terminating the exemption order.

§ 1720.239 Hearings—Notice of proceedings pursuant to § 1710.14 or § 1710.16 of this chapter.

(a) A developer, upon receipt of a notice of proceedings issued pursuant to § 1710.14 or § 1710.16 of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the notice of proceedings. Such request must be filed within 15 days of receipt of the notice of proceedings and must be accompanied by an answer conforming to the requirements of § 1720.245. Filing of a motion for a more definite statement pursuant to § 1720.315 shall alter the period of time to request a hearing in accordance with § 1720.240.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 45 days of receipt of this request. The time and place for the hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties of their representatives.

(c) Failure to answer within the time allowed by § 1720.240 or failure to appear at a hearing duly scheduled shall result in an appropriate order under § 1710.14 or § 1710.16 of this chapter terminating the developer's exemption. Such order shall be effective as of the date of service or receipt.

PART 1730—APPLICATION OF REGULATIONS TO EXISTING AND FUTURE FILINGS

19. A new Part 1730 is added as follows:

Sec:

1730.1–1730.99 [Reserved]
1730.100 Application of regulations to existing and future filings.
1730.101–1730.999 [Reserved]

Authority: Sec. 1419, Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 598; 15 U.S.C. 1718; Sec. 7(d) Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

§§ 1730.1–1730.99 [Reserved]

§ 1730.100 Application of regulations to existing and future filings.

(a) All initial exemption requests, initial registrations, consolidations, amendments and other actions made on or after June 21, 1980 shall be made pursuant to these revised regulations.

(b) All existing registrations and, where applicable, all exemptions must begin use of the new revocation language and additional contract provisions required by §§ 1710.12, 1710.13, 1710.15, 1710.16, 1710.103, 1710.105, 1710.209(f), 1710.558 and 1710.559 on June 21, 1980. However, insertion of these new provisions may be accomplished by overprint or paste-over until the developer's current stock of Property Reports and contract, agreement and note forms is exhausted or June 30, 1981, whichever is the earlier. Copies of these revised documents will not be required to be submitted as an amendment until an amendment or consolidation is otherwise necessary for the registration.

(1) Consolidations to existing registrations shall bring the entire registration into compliance with these regulations.

(2)(i) Amendments to existing registrations shall bring the Property Report portion of the Statement of Record into compliance with the revised regulations. The entire Additional Information and Documentation portion of the Statement of Record need not be submitted. However, a material change in a section or in documentation will require the submission of the entire affected section with any changed supporting documentation. Sections containing information and documents not previously furnished and the financial information and documents required by § 1710.212 must be included.

(ii) The developer may, at its option, include the Additional Information and Documentation portion, including new documentation or copies of those documents previously submitted, in order to expedite the examination process.

(3) All registrations having an effective date on or before December 31, 1973 shall file amendments to comply with the revised regulations not later than June 30, 1980.

(4) All registrations having an effective date on or after January 1, 1974 shall file amendments to comply with these revised regulations between June 1980 and June 30, 1981, or earlier at the developer's option. The amendment shall be submitted by the end of the anniversary month of the last effective date issued by the Secretary. For example, a developer whose last effective date was October 15, 1976 would be required to amend by October 31, 1980.

(5) If, at the time of a material change or the date a conversion is due, there are fewer than 100 lots remaining for sale in a registered offering, an affidavit, in lieu of a complete conversion, may be submitted. The developer must state in the affidavit that there are fewer than 100 lots remaining for sale in the registered offering and that it is not expected that this number will be exceeded through reacquisitions or the adding of land. If changes are necessary to the content of the Property Report or Statement of Record, an amendment in the format required by the regulations in effect at the time of the last effective date shall accompany the affidavit. However, the amendment shall include the new revocation language on the cover sheet required by § 1710.105 and the contract provisions required by §§ 1710.103, 1710.209(f), 1710.558 and 1710.559.

(c) Intitial exemption requests, initial filings, consolidations, amendments and other actions submitted prior to June 21, 1980, but which have not become effective on that date, must comply with all provisions of these revised regulations prior to the issuance of an effective date unless an exception is granted elsewhere in these regulations.

(d) Subdivisions which had qualified for any exemption which is deleted by these regulations must qualify for a new or remaining exemption or file a registration in order to continue sales on or after June 21, 1980.

§ 1730.101–1730.999 [Reserved]

Issued at Washington, D.C., on June 9, 1980.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-17871 Filed 6-10-80; 2:15 pm]
BILLING CODE 4210-01-M

federal register

Friday
June 13, 1980

Part V

Consumer Product Safety Commission

Advisory Committees; Invitation for Membership Application

CONSUMER PRODUCT SAFETY COMMISSION

Advisory Committees; Invitation for Membership Application

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Advisory Committee vacancies and invitation to apply for membership.

SUMMARY: The purpose of this notice is to invite applications and nominations of candidates for membership on three advisory committees of the Consumer Product Safety Commission for vacancies that will occur in July 1980. The advisory committees are: (1) the Product Safety Advisory Council (2) the National Advisory Committee for the Flammable Fabrics Act, and (3) the Technical Advisory Committee on Poison Prevention Packaging. These appointments are for two-year terms. This notice contains information on the function and composition of the advisory committees; the number and representational category of the vacancies occurring on each committee in July 1980; the representational categories and expertise of member remaining on the committees; general criteria for membership on Consumer Product Safety Commission advisory committees; and procedures for making application or nomination of candidates for membership. Interested persons may apply for committee membership by submitting the application form appearing at the end of this notice, or may substitute a resume for the form if it is accompanied by an attachment which completes all of the application questions.

CONTACT PERSON FOR ADDITIONAL INFORMATION:
Barbara Rosenfeld, Director, Office of Public Participation, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202–634–7700.

CLOSING DATE: July 15, 1980. Applications received after that date will not be considered for July 1980 vacancies.

SUPPLEMENTARY INFORMATION:

Product Safety Advisory Council

Section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) provides that the Commission shall establish a 15-member Product Safety Advisory Council.

The Council functions in an advisory capacity providing the Commission with diverse viewpoints on major policy issues, proposed rulemaking, and approaches to special problems and issues in implementing the Commission's legislative mandate to protect the public against unreasonable risks of injury associated with consumer products. The Council may propose safety rules for the Commission's consideration. The Council shall meet at least four times each calendar year, and Council members may be requested to provide written comments and/or participate in subcommittee projects between meeting sessions.

The Product Safety Advisory Council is composed of 15 members representing government, industry and consumers, as follows: (1) five members selected from governmental agencies including federal, state and local governments; (2) five members selected from consumer product industries including at least one representative of small business; and (3) five members selected from among consumer organizations, community organizations, and recognized consumer leaders. Membership of the Council, insofar as possible, shall be balanced in terms of geographic location, age, sex, and race. Further, within the representational categories specifically mandated by law, the Commission seeks to select members to ensure the widest possible diversity of experience, expertise, background and interests.

The Commission anticipates seven (7) vacancies in July 1980: two (2) in the consumer category, two (2) in the government category and three (3) in the industry category, including small business.

The eight (8) members remaining on the Product Safety Advisory Council are as follows. Consumer Category: a consumer advocate affiliated with the Virginia Citizens Consumer Council, Richmond, Virginia; a consumer advocate who is the president of the Council on Children, Media and Merchandising, Washington, DC; and a self-employed public interest attorney who specializes in consumer, natural resources and energy law, Albuquerque, New Mexico. Industry Category: a vice president and director of engineering of Disston, Inc., a manufacturer of power hand tools, Danville, Virginia; and the vice president of consumer affairs for The May Department Store Co., Pittsburgh, Pennsylvania. Government Category: the bureau chief of field services for the State of New Mexico's Park and Recreation Department, Santa Fe, New Mexico; a consumer affairs coordinator for the Santa Cruz, California District Attorney Consumer Affairs Office; and the director of environmental affairs and investigator-engineer in consumer affairs for the Boulder, Colorado District Attorney's Office.

The Commission is seeking individuals who will provide additional diversity of qualifications, experience and background to the advisory committee. They may be specialists in the field or persons such as academics, scientists or medical practitioners, students, homemakers, retirees or others, whose general activities have given them knowledge in this area. For consumers, this may have been through involvement in the areas of consumer protection, information or education; activities directed to the special needs of children, the handicapped, minorities, low-income or senior citizens; teaching or research in safety of consumer products; public interest law, etc. Industry representatives may have had such diverse occupational responsibilities as quality control, product testing, engineering or design, marketing, voluntary standards development, trade association experience, corporate policy-making, import/export, etc. Government representatives may have been involved at the federal, state or local level in activities related to consumer affairs, product safety regulatory activities, product-related research and/or testing, health, etc. This list is intended to be illustrative only; other kinds of appropriate experience will also be considered.

National Advisory Committee for the Flammable Fabrics Act

The National Advisory Committee for the Flammable Fabrics Act was established in 1968 by the Department of Commerce under Section 17 of the Flammable Fabrics Act, as amended (Pub. L. 83–88, U.S.C. 1204). Functions under the Act, including administration of the National Advisory Committee, were transferred, effective May 14, 1973, to the Commission by Section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)).

The National Advisory Committee provides the Commission with advice, opinions, and recommendations on its proposed regulations or other programs to reduce the frequency and severity of burn injuries involving flammable fabrics. The Flammable Fabrics Act provides that the Commission shall consult with the Committee before prescribing flammability standards pursuant to the Act. Committee members may be requested to provide written comments, may be consulted by telephone, and/or may convene for one or more meetings as needed.

The National Advisory Committee for the Flammable Fabrics Act is composed

of 20 members, ten (10) of whom are representative of the consuming public and ten (10) of whom are representative of manufacturers and distributors, with manufacturers to include the natural fiber producing industry, the man-made fiber producing industry, and manufacturers of fabrics, related materials, apparel or interior furnishings. Membership of the Committee, insofar as possible, shall be balanced in terms of geographic location, age, sex, and race. Further, within the representational categories specifically mandated by law, the Commission seeks to select members with the widest possible diversity of experience, expertise, background, and interests.

Nine (9) vacancies are anticipated in June 1980 on the National Advisory Committee: four (4) in the consumer category and five (5) in the industry category.

The eleven (11) members remaining on the National Advisory Committee include among the consumer representatives two academicians—a professor of textiles and fiber science at the University of Delaware, Newark, Delaware and an assistant professor of clothing, textiles and interior design at Kansas State University, Manhattan, Kansas; a regional coordinator of textile flammability-victim behavior burn study at the University of Virginia Burn Center, Charlottesville, Virginia; the chief of the bureau of home furnishings for the State of California, North Highlands, California; the executive director of the Northern California Burn Council, San Francisco, California; and the New York City fire department's liaison officer to community planning boards.

The industry members remaining on the National Advisory Committee are the manager of the mechanical operating division and life safety laboratory of Owens-Corning Fiberglas Corporation, Granville, Ohio; the director of risk management for Joseph Magnin Company, Inc.; the manager of Testing Service at The Wool Bureau, Woodbury, New York; a divisional vice president of the Associated Merchandising Corp., New York, New York and a senior research chemist at Dow Badische Corporation, Williamsburg, Virginia.

The Commission is seeking individuals who will provide additional diversity of qualification, experience and background to the Committee. They may be specialists in the field or persons such as academics, retirees or others whose general activities have given them knowledge in this area. For consumers, this may have been through current or past involvement in burn treatment programs; fire prevention programs; teaching and/or research relating to textiles and home furnishings; consumer orgainzation or local citizen group activities relating to flammability, public interest law, homemaking, etc. Diversity among industry representatives within the basic categories provided for by law would includ past or current activities related to voluntary standards development in the area of fabric/textile flammability, fire-prevention programs, trade associations, research and/or teaching; occupational responsibilities such as quality control, product testing, product engineering, export/import of consumer products, etc. This list is intended to be illustrative only; other kinds of appropriate experience will also be considered.

Technical Advisory Committee on Poison Prevention Packaging

The Technical Advisory Committee on Poison Prevention Packaging was first established in 1971 by the Department of Health, Education and Welfare under the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; 15 U.S.C. 1471, *et seq.*). Functions under this Act, including administration of the Technical Advisory Committee on Poison Prevention Packaging, were transferred, effective May 14, 1973, to the Commission by Section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

The Technical Advisory Committee provides advice and recommendations to the Commission on the establishment of packaging standards to protect children from serious personal injury or illness resulting from handling, using or ingesting household substances. Further, an important function of the Technical Advisory Committee is to review and evaluate petitions requesting exemption from Poison Prevention Packaging regulations. The Poison Prevention Packaging Act provides that the Commission shall consult with the committee in making findings and in establishing standards pursuant to the Act. Committee members may be requested to provide written comments, may be consulted by telephone, and/or may convene for one or more meetings as needed.

The Poison Prevention Packaging Act specifies that the Technical Advisory Committee shall be composed of not more than 18 members who are representatives of (1) the Department of Health and Human Services (formerly HEW), (2) the Department of Commerce, (3) manufacturers of household substances subject to the Act, (4) scientists with expertise related to the Act and licensed practitioners in the medical field, (5) consumers, and (6) manufacturers of packages and closures for household substances. In order to achieve maximum balance of views on the committee, the Commission by regulation established that, excepting the two specified government representatives, the remaining 16 members of the committee are equally divided among consumer and industry interests, with scientists and medical practitioners included in either the consumer or industry category depending upon their employment affiliation. Membership of the Committee, insofar as possible, shall be balanced in terms of geographic location, age, sex and race. Further, within the representational categories specifically mandated by law, the Commission seeks to select members to ensure the widest possible diversity of experience, expertise, background and interests.

The Commission anticipates eight (8) vacancies on the Technical Advisory Committee: three (3) representatives of the consuming public, and five (5) representatives of industry interest.

The eight (8) members remaining on the Technical Advisory Committee, in addition to the representatives from the Department of Health and Human Services and the Department of Commerce, include among the consumers: two poison information center directors—the director of the Arkansas Poison and Drug Information Center in Little Rock, Arkansas and the director of the Maryland Poison Information Center in Baltimore, Maryland; two academicians—an assistant professor of consumer sciences and housing at Colorado State University, Fort Collins, Colorado, and an assistant professor of environmental health at the University of Cincinnati Medical Center, Cincinnati, Ohio; and the director of the department of pharmacy services at Brokaw Hospital in Normal, Illinois.

The industry members remaining on the Technical Advisory Committee are the manager of home care products for the Amway Corporation, Ada, Michigan; a manager of research and development for Brockway Glass Company, Inc, Nashua, New Hampshire; and a professor of pharmacology and toxicology at Purdue University, West Lafayette, Indiana, who serves as an industry consultant.

The Commission is seeking individuals who will provide additional diversity of qualifications, experience, and background to the advisory committee. They may be specialists in the field or persons such as academics,

scientists or medical practitioners, students, homemakers, retirees or others, whose general activities have given them knowledge in this area. For consumers, this may be through current or past involvement in activities related to poison control centers, data gathering research or analysis of incidents of poisoning; pediatrics; public interest law; home-accident prevention efforts; teaching and/or research relating to household substances and drugs; homemaking, childrearing, etc. Diversity among industry representatives within the basic categories provided for by law would relate to specific types of products; past or current occupational responsibilities such as quality control, product testing, product engineering and design marketing; or voluntary standards development; and would include practicing pharmacists, medical practitioners and scientists with industry employment affiliation. This list is intended to be illustrative only; other kinds of appropriate experience will also be considered.

Privacy Act Notice

In accordance with the requirements of "The Privacy Act of 1974" (Pub. L. 93–579), persons from whom personal information is collected by a Federal agency are to be advised of the authority which authorizes the solicitation of information, whether disclosure is mandatory or voluntary, the principal purpose for which the information is collected and the routine use to which it will be put, and the effects, if any, of not providing all or any part of the requested information. Accordingly, applicants for membership on the Consumer Product Safety Commission's advisory committees are advised of the following: (1) the authority for collecting the requested information is the Consumer Product Safety Act, sections 28, 30(a) and 30(b), (15 U.S.C. 2077, 2079(a) and 2079(b)), the Flammable Fabrics Act, section 27 (15 U.S.C. 1204) and the Poison Prevention Packaging Act of 1970, section 6 (15 U.S.C. 1475). (2) The submission of applications for advisory committee membership is on a voluntary basis. (3) The purpose for which the requested information is collected and the routine use to which it will be put is to evaluate and select candidates for membership on advisory committees. (4) The effect of not providing the requested information is to preclude the Commission from properly evaluating a candidate for membership on an advisory committee.

Applications should be submitted not later than July 15, 1980 to the Director, Office of Public Participation, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

Dated: June 9, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Advisory Committee Application Form

NOTE: You may substitute a resume for this application form so long as it is accompanied by an attachment which completes all of the application questions.

(Please use typewriter or black ink)

Name of Advisory Committee for which you are applying:

____ Product Safety Advisory Council (Complete Sections I and II)

____ National Advisory Committee for the Flammable Fabrics Act (Complete Sections I and III)

____ Technical Advisory Committee on Poison Prevention Packaging (Complete Sections I and IV)

Section I. Applicant Information (Questions to be answered by all applicants)

NAME (Last, First, Middle)

Home Address

Street or PO Box

Home Telephone (include area code)

City, State, Zip

1. Do you perform consulting work?____ If yes, specify kind of consulting work, for whom, and if paid or volunteer.

2. Are you involved in the performance of work under a contract or grant awarded by CPSC?____ If yes, specify contract title and number and describe your involvement.

3. Are you, or your organization, involved in any proceeding or matter presently pending before the Commission?____ If yes, please explain.

4. Are you, or your organization, presently involved in the development of or a proposal to develop a safety standard or regulation under any of the Acts administered by the Commission?____ If yes, please explain.

NAME (Last, First, Middle)

Section II. Applicants for the Product Safety Advisory Council

Part I.

(a) Name of Employing Organization

(b) Business Address and Telephone (include area code)

(c) Current Position and Description of Duties

(d) Category of Representation (Complete only one section)

(1) Consumer: Specify membership and/or involvement in national or local consumer groups, public interest groups, community service groups, etc., or other activities indicating consumer participation and interest.

(2) Industry: Specify and briefly describe your firm; indicate consumer products related to your firm.

_____ Manufacturer
_____ Importer
_____ Distributor
_____ Retailer
_____ Trade Association
_____ Small Business
_____ Other (Specify)

(3) Government: Specify and briefly describe your agency/department.

_____ Federal
_____ State
_____ Local

(e) Interest/Availability

(1) Why are you interested in serving on the Product Safety Advisory Council? What contribution do you believe you can make?

(2) Would you be able to do the following as required: attend four meetings annually in Washington, D.C., (travel and living expenses are reimbursable); provide written comments; be available for telephone consultation; participate in subcommittees? If limited availability, please explain.

Section II. Applicants for the Product Safety Advisory Council

Part II.

(a) Describe education, experience or extracurricular activities related to product safety, generally, and to the activities of the Product Safety Advisory Council, specifically. Please feel free to attach resume or other information that details your interest or qualifications for a position on the Advisory Council.

(b) Check applicable areas of experience/expertise and provide descriptive comments for each area checked.

____ Product safety regulatory activities
____ Hazardous substances
____ Voluntary standards development
____ Fire prevention programs
____ Trade Association
____ Product design
____ Product testing
____ Product-related research
____ Quality Control
____ Accidents in the home
____ Concerns of the elderly
____ Concerns of the handicapped
____ Public interest law
____ Import/export activities
____ Consumer education/information
____ Consumer protection
____ Teaching
____ Marketing
____ Corporate policy development
____ Health/safety programs
____ Other relevant experience/expertise

(c) Other affiliations. Without restating information given above, specify all affiliations, past and current, either paid or volunteer, that bear any relationship to the subject area of product safety or to membership on the Product Safety Advisory Council.

Sign at either (1) or (2)

(1) Applicant signature _____ _____
Date

(2) Nominator's statement (if other than applicant):
I nominate _____ who has agreed to serve if selected.
Nominator's signature_____ Date _____

Applications should be submitted not later than July 15, 1980, to the Director, Office of Public Participation, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Section III. Applicants for the National Advisory Committee for the Flammable Fabrics Act

NAME (Last, First, Middle)_____

Part I.

(a) Name of Employing Organization

(b) Business Address and Telephone (include Area Code)

(c) Current Position and Description of Duties

(d) Category of Representation (complete only one section)

1. Consumer: Specify membership and/or involvement in national or local consumer groups, public interest groups, community service groups, etc., or other activities indicating consumer participation and interest.

2. Industry: Specify and briefly describe your firm; specify consumer products related to your firm.

_____ Manufacturer
_____ Importer
_____ Distributor
_____ Retailer
_____ Trade Association
_____ Small Business
_____ Other (Specify)

(e) Interest/Availability

(1) Why are you interested in serving on the National Advisory Committee for the Flammable Fabrics Act? What contribution do you believe you can make?

(2) Would you be able to do the following: provide written comments, be available for telephone consultation, participate in subcommittees, travel to one or more meetings in Washington, DC; if needed (travel and living expenses are reimbursable)? If limited availability, please explain.

Section III. Applicants for the National Advisory Committee for the Flammable Fabrics Act

Part II.

(a) Describe education, experience or extracurricular activities related to product safety, generally, and to the activities of the National Advisory Committee for the Flammable Fabrics Act, specifically. Please feel free to attach resume or other information that details your interest or qualifications for a position on this committee.

(b) Check applicable areas of experience/expertise and provide descriptive comments for each area checked.

____ Product safety regulatory activities
____ Hazardous substances
____ Flammable fabrics
____ Voluntary standards development
____ Burn treatment programs
____ Fire prevention programs
____ Trade association
____ Product design
____ Product testing
____ Product-related research
____ Quality control
____ Accidents in the home
____ Concerns of the elderly
____ Concerns of the handicapped
____ Public interest law
____ Import/export activities
____ Consumer education/information
____ Consumer protection
____ Teaching
____ Marketing
____ Corporate policy development
____ Health/safety programs
____ Other relevant experience/expertise

(c) Other affiliations. Without restating information given above, specify all affiliations, past and current, either paid or volunteer, that bear any relationship to the subject area of product safety or to membership on the National Advisory Committee for the Flammable Fabrics Act.

Sign at either (1) or (2)

(1) Applicant signature_____ Date_____

(2) Nominator's statement (if other than applicant):

I nominate_____ who has agreed to serve if selected.

Nominator's signature_____ Date _____

Applications should be submitted not later than July 15, 1980, to the Director, Office of Public Participation, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Section IV. Applicants for the Technical Advisory Committee on Poison Prevention Packaging

NAME (Last, First, Middle)_____

Part I.

(a) Name of Employing Organization

(b) Business Address and Telephone (include Area Code)

(c) Current Position and Description of Duties

(d) Category of Representation (complete only one section)

1. Consumer: Specify membership and/or involvement in national or local consumer groups, public interest groups, community service groups, etc., or other activities indicating consumer participation and interest.

2. Industry: Specify and briefly describe your firm; specify consumer products related to your firm.

_____ Manufacturer
_____ Importer
_____ Distributor
_____ Retailer
_____ Trade Association
_____ Small Business
_____ Other (Specify)

(e) Interest/Availability

(1) Why are you interested in serving on the Technical Advisory Committee on Poison Prevention Packaging? What contribution do you believe you can make?

(2) Would you be able to do the following: provide written comments, be available for telephone consultation; participate in subcommittees; travel to one or more meetings in Washington, DC; if needed (travel and living expenses are reimbursable)? If limited availability, please explain.

Section IV. Applicants for the Technical Advisory Committee on Poison Prevention Packaging

Part II.

(a) Describe education, experience or extracurricular activities related to product safety, generally, and to the activities of the Technical Advisory Committee on Poison Prevention Packaging, specifically. Please feel free to attach resume or other information that details your interest or qualifications for a position on this committee.

(b) Check applicable areas of experience/expertise and provide descriptive comments for each area checked.

____ Product safety regulatory activities
____ Hazardous substances
____ Poison prevention packaging
____ Voluntary standards development
____ Poison control centers
____ Trade association
____ Product design
____ Product testing
____ Product-related research
____ Quality control
____ Accidents in the home
____ Concerns of the elderly
____ Concerns of the handicapped
____ Public interest law
____ Import/export activities
____ Consumer education/information
____ Consumer protection
____ Teaching
____ Marketing
____ Corporate policy development
____ Health/safety programs
____ Other relevant experience/expertise

(c) Other affiliations. Without restating information given above, specify all affiliations, past and current, either paid or volunteer, that bear any relationship to the subject area of product safety or to membership on the Technical Advisory Committee on Poison Prevention Packaging.

Sign at either (1) or (2)

(1) Applicant signature_____ Date_____

(2) Nominator's statement (if other than applicant):
I nominate _____ who has agreed to serve if selected.
Nominator's signature _____ Date_____

Applications should be submitted not later than July 15, 1980, to the Director, Office of Public Participation, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

[FR Doc. 80-17820 File 6-12-80; 8:45 am]
BILLING CODE 6355-01-C

federal register

Friday
June 13, 1980

Part VI

Department of Energy

Nondiscrimination in Federally Assisted Programs

DEPARTMENT OF ENERGY

10 CFR Part 1040

Nondiscrimination in Federally Assisted Programs; General Provisions

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule implements various statutes that prohibit discrimination on the grounds or race, color, national origin, sex, handicap or age in programs and activities receiving Federal financial assistance from the Department of Energy (DOE). The rule sets out the requirements of the Federal laws implemented and the procedures to be followed by appropriate officials within the Department of Energy to enforce them. The requirements of this Part apply to each recipient, direct or indirect, of Federal financial assistance from the Department of Energy.

Section 602 of Title VI of the Civil Rights Act of 1964 provides that a recipient or applicant is entitled to a hearing on the record before financial assistance is terminated or withheld because of a violation of that Act. Under Section 402(d) of the DOE Organization Act, the Federal Energy Regulatory Commission (FERC) has jurisdiction within the Department over matters required by law to be determined on the record after an opportunity for an agency hearing. Accordingly, the FERC will promulgate regulations regarding the conduct of hearings to deny or terminate Federal financial assistance for failure to comply with these regulations.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT:

Carlos A. Ruiz, Director, Federally Assisted Programs Division, Office of Equal Opportunity, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–2244.

Andrew J. Moran, Attorney Advisor, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-8618.

SUPPLEMENTARY INFORMATION:

Background

The Department of Energy (DOE) Organization Act, Pub. L. 95–91, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*, transferred to the Department of Energy the functions of the Energy Research and Development Administration, which had responsibility for long-term energy research and development; the Federal Energy Administration, which had the task of developing the Nation's energy policy and allocating its energy supply; the Federal Power Commission, which was renamed the Federal Energy Regulatory Commission (FERC) and whose responsibilities included ratemaking for gas and electric power; and energy-related functions of various other Federal agencies and departments.

Although several of the predecessor agencies and components of the Department were extending Federal financial assistance in the form of grants, loans, and contracts, none of those entities had issued appropriate regulations implementing the Federal statutes that prohibit discrimination in Federally assisted programs.

On November 16, 1978, the Department of Energy issued a proposed rule to carry out its responsibilities under the various laws governing nondiscrimination in Federally assisted programs. Five hundred and eleven (511) responses were received during the thirty-one day comment period. Of that total, 431 respondents concurred with the proposed rule as published. The remaining 80 comments recommended various changes. The Department's response to these comments and the explanation for changes in the proposed rule are set forth below in the summary of the final regulation.

Summary of Rule and Analysis of Comments

Subpart A of this regulation defines important terms that are used throughout the regulation and states in general terms the program requirements common to the several Federal statutes implemented by this Part. It also sets forth what the Department believes is a simple, workable system of administration: assurances of compliance; self-evaluation by recipients; establishment of complaint procedures; and notification of employees and beneficiaries of the policy of nondiscrimination of the recipient on the basis of race, color, national origin, sex, handicap, or age.

Subpart B pertains to the various kinds of discriminatory acts prohibited and discusses the specific applicability of Title VI of the Civil Rights Act of 1964; Section 16 of the Federal Energy Administration Act of 1974, as amended (Section 16); and Section 401 of the Energy Reorganization Act of 1974 (Section 401) to the employment practices of a recipient. The employment practices covered include recruitment, hiring, compensation, promotion, demotion, training, and the use of facilities.

A review of comments submitted on Subpart B resulted in only one significant change to that Subpart. The recommendation was to clarify the application of Section 16 of the Federal Energy Administration Act of 1974, as amended, and Section 401 of the Energy Reorganization Act of 1974. Both prohibit, in part, discrimination based on sex in any program or activity receiving, in whole or in part, Federal financial assistance from the Department. The statutory language contained in both Section 16 and Section 401 states those sections apply only to the respective Acts in which they appear, the Federal Energy Administration Act of 1974, as amended, and the Energy Reorganization Act of 1974. Section 16 and Section 401, however, are not limited to the covered employment practices of Title VI of the Civil Rights Act of 1964.

In order to avoid any possible confusion, Subpart B, Section 1040.11(a) was amended to specify that the prohibitions on sex discrimination contained in Section 16 and Section 401 apply only to programs and activities receiving Federal financial assistance under the Federal Energy Administration Act of 1974, as amended, and the Energy Reorganization Act of 1974. Additionally, Section 1040.11(b) and Section 1040.12(a) were amended to clarify the application of Section 16 and Section 401.

Subpart C deals with implementation of Title IX of the Education Amendments of 1972, as amended. That Title was intended to eliminate discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. Subpart C defines all exceptions to the statute.

Several comments were received in reference to addition of a section on prohibitions against sex discrimination in employment of nonstudents by recipients of Federal financial assistance from DOE. Revisions to the regulation were made in response to these comments and an employment section was added to the rule. The addition of the employment section is consistent with other Title IX regulations issued by Federal departments.

Subpart D pertains to Section 504 of the Rehabilitation Act of 1973 and defines, in general terms, what employment criteria are discriminatory; the necessary limitations on preemployment inquiries; and the requirement that recipients assure reasonable accommodation to qualified handicapped applicants, employees, or beneficiaries. It also establishes requirements for making existing and

newly constructed facilities accessible to qualified handicapped applicants, employees, or beneficiaries.

Comments led to three additions to Subpart D. A new section, 1040.74, was added to provide quidance to applicants and recipients on program accessibility in historic properties.

Further clarification of the term "physical or mental impairment" was added that modified the definition of drug or alcohol addiction as an impairment. This was added as a result of the Rehabilitation, Comprehensive Services and Development Disabilities Amendments of 1978, Pub. L. 95–602. Paragraph 1040.63(d) was added in accordance with HEW Guidelines.

Subparts G and H deal with the application of the program monitoring and enforcement requirements and procedures common to the various Federal statutes implemented by this regulation. There were no major changes to Subpart G. Minor adjustments were made to clarify the intent of one requirement. Subpart H (Enforcement) was amended to comply with Section 402(d) of the DOE Organization Act, Pub. L. 95–91. Section 602 of Title VI of the Civil Rights Act of 1964 provides that a recipient or applicant is entitled to a hearing on the record before aid is terminated or denied because of violation of the Act. Under Section 402(d) of the DOE Organization Act, the FERC has jurisdiction within the Department over matters required by law to be determined on the record after an opportunity for an agency hearing. Accordingly, the FERC will promulgate regulations regarding the conduct of hearings to deny or terminate Federal financial assistance.

Many comments reflected confusion between those laws cited in this regulation under the heading, "Authority," and Title VII of the Civil Rights Act of 1964 and related laws and statutes. The intent of this regulation is to assure equitable distribution and quality in services, benefits, and employment that result from a federally assisted program or activity. This rule does not apply to procurement contracts under Title 41 Code of Federal Regulations, Part 1 or Part 9. Under Title VI, the employment practices of a recipient or subrecipient are only considered when there is a direct relationship between these practices and the delivery of services to the public.

Some comments were concerned with overlapping responsibilities among agencies. The Department of Energy will fulfill its responsibilities to coordinate with other agencies in the implementation of the laws cited in this regulation, under the Executive Orders, and under the guidelines from the Department of Justice, the Department of Health, Education and Welfare, and the Equal Employment Opportunity Commission.

The Department of Energy has determined that this rulemaking is significant as that term is used in Executive Order 12044 and DOE Order 2030.1, but that it is not likely to have a major impact as defined in these two documents. Accordingly, no regulatory analysis has been performed.

In consideration of the foregoing, Part 1040 is hereby added to Title 10 of the Code of Federal Regulations to read as set forth below.

Dated: March 19, 1980.

John C. Sawhill,

Deputy Secretary, Department of Energy.

PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

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Appendix A—"Federal Financial Assistance of the Department of Energy to Which This Part Applies."

Authority: Title VI of the Civil Rights Act of 1964, Pub. L. 88–352, 78 Stat. 252, 42 U.S.C. 2000d; Section 16 of the Federal Energy Administration Act of 1974, Pub. L. 93–275, 88 Stat. 109, 16 U.S.C. 775; Section 401 of the Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1254, 42 U.S.C. 5891; Title IX of the Education Amendments of 1972, as amended, Pub. L. 92–318, 86 Stat. 373, Pub. L. 93–568, 88 Stat. 1862, Pub. L. 94–482, 90 Stat. 2234, 20 U.S.C. 1681; Section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394, 29 U.S.C. 794; the Age Discrimination Act of 1975, Pub. L. 94–135, 89 Stat. 728, 42 U.S.C. 6101; Title VIII of the Civil Rights Act of 1968, Pub. L. 90–284, 82 Stat. 81, 42 U.S.C. 3601–3707; Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565, 42 U.S.C. 7101; the Energy Conservation and Production Act of 1976, as amended, Pub. L. 94–385, 90 Stat. 1158, 42 U.S.C. 6870.

Subpart A—General Provisions

§ 1040.1 Purpose.

The purpose of this Part is to implement Title VI of the Civil Rights Act of 1964, Pub. L. 88–352; Section 16 of the Federal Energy Administration Act of 1974, as amended, Pub. L. 93–275; Section 401 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Title IX of the Education Amendments of 1972, as amended, Pub. L. 92–318, Pub. L. 93–568 and Pub. L. 94–482; Section 504 of the Rehabilitation Act of 1973, as amended, Pub. L. 93–112; the Age Discrimination Act of 1975, Pub. L. 94–135; Title VIII of the Civil Rights Act of 1968, Pub. L. 90–284; and civil rights provisions of statutes administered pursuant to authority under the DOE Organization Act, Pub. L. 95–91, so no person shall, on the ground of race, color, national origin, sex (when covered by Section 16 and Section 401), handicap, or age, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where a primary purpose of the program or activity is to provide employment or when the delivery of program services is affected by the recipient's employment practices (under Section 504, all grantee and subgrantee employment practices are covered regardless of the purpose of the program), in connection with any program or activity receiving Federal financial assistance from the Department of Energy (after this referred to as DOE or the Department). Employment coverage may be broader in scope when Section 16, Section 401, or Title IX are applicable.

§ 1040.2 Application.

(a) The application of this Part is to any program or activity for which Federal financial assistance is authorized under laws administered by DOE. Programs to which this Part applies are listed in Appendix A of this Part. Appendix A is to be revised from time to time by notice published in the **Federal Register**. This Part applies to money paid, property transferred, or other Federal financial assistance including cooperative agreements extended under any program or activity, by way of grant, loan, or contract by DOE, or grants awarded in the performance of a contract with DOE by an authorized contractor or subcontractor, the terms of which require compliance with this Part. If any statutes implemented by this Part are otherwise applicable, the failure to list a program in Appendix A does not mean the program is not covered by this Part.

(b) This Part does not apply to—

(1) Contracts of insurance or guaranty;

(2) Employment practices under any program or activity except as provided in §§ 1040.12, 1040.14, 1040.41, 1040.47 and 1040.66; or

(3) Procurement contracts under Title 41 CFR, Part 1 or 9.

§ 1040.3 Definitions—General.

(a) "Academic institution" includes any school, academy, college, university, institute, or other association, organization, or agency conducting or administering any program, project, or facility designed to educate or train individuals.

(b) "Administrative law judge" means a person appointed by the reviewing authority to preside over a hearing held under this Part.

(c) "Agency" or "Federal agency" refers to any Federal department or agency which extends Federal financial assistance.

(d) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department official or by a primary recipient as a condition to becoming eligible for Federal financial assistance.

(e) "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United Stat.es Department of Justice.

(f) "Director, FAPD" refers to the Director, Federally Assisted Programs Division, Office of Equal Opportunity, DOE.

(g) "Compliance Review" means an analysis of a recipient's selected employment practices or delivery of services for adherence to provisions of any of the subparts of this Part.

(h) "Department" means the Department of Energy (DOE).

(i) "FERC" means the Federal Energy Regulatory Commission, DOE.

(j) Where designation of persons by race, color, or national origin is required, the following designations are to be used:

(1) *Black,* not of Hispanic origin. A person having origins in any of the black racial groups of Africa.

(2) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

(3) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This includes, for example, China, India, Japan, Korea, the Philippine Islands, Hawaiian Islands, and Samoa.

(4) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

(5) *White, not of Hispanic Origin.* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis. Subparagraphs (1) through (5), inclusive, set forth in this section are in conformity with Directive No. 15 of the Office of Federal Statistical Policy and Standards. To the extent that these designations are modified, subparagraphs (1) through (5), inclusive, set forth in this section are to be interpreted to conform with those modifications.

(k) "Director" means the Director, Office of Equal Opportunity, DOE.

(l) "Disposition" means any treatment, handling, decision, sentencing, confinement, or other proscription of conduct.

(m) "Employment practices," see individual section headings.

(n) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

(o) "Federal financial assistance" includes (1) grants and loans of Federal

funds, (2) the grant or donation of Federal property and interest in property, (3) the detail of or provision of services by Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease, or furnishing of services to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(p) "General Counsel" mean the Office of the General Counsel Department of Energy.

(q) "Government organization" means the political subdivision for a prescribed geographical area.

(r) "Investigations" include fact-finding efforts and attempts to secure voluntary resolution of complaints.

(s) "Noncompliance" means the failure of a recipient or subrecipient to comply with any subpart of this Part.

(t) "Primary recipient" means any person, group, organization, state, or local unit of government which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(u) "Program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through an employee of the grantee or provided by others through contracts or other arrangements with the grantee, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal resources or such non-Federal resources.

(v) "Responsible Departmental or DOE Official" means the official of the Department of Energy that has been assigned the principal responsibility for administration of the law extending Federal financial assistance.

(w) "Reviewing authority" means the component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under this Part.

(x) "Secretary" means the Secretary of the Department of Energy.

(y) The term "United States" includes the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Island, American Samoa, Guam, Wake Island, the Canal Zone, and all other territories and possessions of the United States, and the term "State" includes any one of the foregoing.

(z) "Headquarters" means DOE offices located in Washington, D.C.

§ 1040.4 Assurances required and preaward review.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this Part applies shall submit an assurance on a form specified by the Director that the program or activity will be operated in compliance with applicable subparts. Such assurances are to include provisions which give the United States a right to seek judicial enforcement.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structure on the property, the assurance obligates the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance obligates the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance obligates the recipient to all terms and conditions contained in the certificate of assurance for the period during which Federal financial assistance is extended.

(c) *Covenants.* Where Federal financial assistance is provided in the form of real property, structures, improvements on or interests in the property, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest in the property from the Department:

(1) The instrument effecting or recording this transfer is to contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits; or

(2) Where no transfer of property is involved or imposed with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant is to also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a material breach of the covenant. If a transferee of real property manages to mortgage or otherwise encumber the real property as security for financing construction of new or improvement of existing facilities on the property for the purpose for which the property was transferred, the Director may, upon request of the transferee and, if necessary to accomplish such financing and upon such conditions, as he or she deems appropriate, agree to forbear the exercise of the right to revert title for so long as the lien of the mortgage or other encumbrance remains effective.

(d) *Assurances from government agencies.* In the case of any application from any department, agency or office of any State or local government for Federal financial assistance for any specified purpose, the assurance required by this section is to extend to any other department, agency, or office of the same governmental unit if the policies of such other department, agency, or office will substantially affect the project for which Federal financial assistance is requested. That requirement may be waived by the responsible Department official if the applicant establishes, to the satisfaction of the responsible Department official, that the practices in other agencies or parts of programs of the governmental unit will in no way affect—

(1) Its practices in the program for which Federal financial assistance is sought;

(2) The beneficiaries of or participants in or persons affected by such program; or

(3) Full compliance with the subpart as respects such program.

(e) *Assurance from academic and other institutions.* (1) In the case of any application for Federal financial assistance for any purpose to an academic institution, the assurance required by this section is to extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an academic institution, detention or correctional facility, or any other institution or facility, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, wards, inmates, persons subject to control, or clients of the institution or facility or to the opportunity to participate in the provision of services, disposition, treatment, or benefits to such individuals, shall be applicable to the entire institution or facility.

(f) *Continuing State programs.* Any State or State agency administering a program which receives continuing Federal financial assistance subject to this Part shall, as a condition for the extension of such assistance—

(1) provide a statement that the program is (or, in the case of a new program, will be) conducted in compliance with applicable subparts; and

(2) provide for such methods of administration as are found by the Director or a designee to give reasonable assurance that the primary recipient and all other recipients of Federal financial assistance under such program will comply with this Part.

(g) *Assistance for construction.* Where the assistance is sought for the construction of a facility, or a part of a facility, the assurance is to extend to the entire facility. If a facility to be constructed is part of a larger system, the assurance is to extend to the larger system.

(h) *Pre-award review.* Prior to and as a condition of approval, all applications for Federal financial assistance are to be reviewed by the appropriate Civil Rights Department official who is to make a written determination of the applicant's compliance with this Part. The basis for such a determination is to be the submission of the assurance of compliance as specified in paragraph (a) and a review of data to be submitted by the applicant as specified by the Director. For purposes of this subsection, the appropriate departmental official at headquarters level is the Director, FAPD, Office of Equal Opportunity, and at the regional level it is to be the Civil Rights Officer delegated by the Director as having review authority for determining compliance with requirements of this Part. Where a determination of compliance cannot be made from this data, DOE may require the applicant to submit necessary additional information and may take other steps necessary to make the determination of compliance. Such other steps may include, for example, communicating with local government officials or protected class organizations and field reviews. Any agreement to achieve voluntary compliance as a result of a preaward review shall be in writing. In the case of Title VI, the Director will notify the Assistant Attorney General of instances of probable noncompliance determined as the result of application reviews. The opportunity for a hearing as provided under § 1040.113 is applicable to this section.

§ 1040.5 Designation of responsible employee.

(a) Designation of responsible employee. Each recipient shall designate at least one employee to coordinate its efforts to carry outs its responsibilities under this Part. The recipient shall publish the name, office address and telephone number of the employee or employees appointed under this paragraph.

(b) A recipient shall display prominently, in reasonable numbers and places, posters which state that the recipient operates a program or programs subject to the nondiscrimination provisions of applicable subparts, summarize those requirements, note availability of information regarding this Part from the recipient and DOE, and explain briefly the procedures for filing a complaint. Information on requirements of this Part, complaint procedures and the rights of beneficiaries are to be included in handbooks, manuals, pamphlets, and other materials which are ordinarily distributed to the public to describe the federally assisted programs and the requirements for participation by recipients and beneficiaries. To the extent that recipients are required by law or regulation to publish or broadcast program information in the news media, the recipient shall insure that such publications and broadcasts state that the program in question is an equal opportunity program or otherwise indicate that discrimination in the program is prohibited by Federal law.

(c) Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program requires service or information in a language other than English in order to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and size and concentration of such population, to provide information in appropriate languages (including braille) to such persons. This requirement applies to written material of the type which is ordinarily distributed to the public. The Department may require a recipient to take additional steps to carry out the intent of this subsection.

§ 1040.6 Notice.

(a) A recipient shall take appropriate, initial and continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of race, color, national origin, sex (where Sec. 16 or Sec. 401 apply), handicap, or age. The notification is to state, where appropriate, that the recipient does not discriminate in admission or access to, and treatment of, or employment in its programs and activities and inform employees of their rights under this Part. The notification is to include an identification of the responsible employee designated under § 1040.5. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this Part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in subsection (a) of this section. A recipient may meet the requirement of this subsection either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

(c) The provisions of § 1040.5(c) to provide information in appropriate languages (including braille), apply to this section.

§ 1040.7 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Director finds that a recipient has discriminated against persons on the basis of race,

color, national origin, sex, handicap, or age in any program or activity receiving Federal financial assistance, the recipient shall take remedial action as the Director considers necessary to overcome the effects of the discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of race, color, national origin, sex, handicap, or age in any program or activity, a recipient may continue a program that will encourage participation by all persons regardless of race, color, national origin, sex, handicap, or age.

(c) *Self-evaluation.* Each recipient shall, within one year of the effective date of this Part:

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

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

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

(d) Availability of self-evaluation and related materials. Recipient shall maintain on file, for at least three years following its completion, the evaluation required under paragraph (c) of this section, and shall provide to the Director, upon request, a description of any modifications made under paragraph (c)(2) of this section and of any remedial steps taken under paragraph (c)(3) of this section.

§ 1040.8 Effect of employment opportunity.

Due to limited opportunities in the past, certain protected groups may be underrepresented in some occupations or professions. A recipient's obligation to comply with this Part is not alleviated by use of statistical information which reflects limited opportunities in those occupations or professions.

Subpart B—Title VI of the Civil Rights Act of 1964; Section 16 of the Federal Energy Administration Act of 1974, as Amended; and Section 401 of the Energy Reorganization Act of 1974

§ 1040.11 Purpose and application.

(a) The purpose of this subpart is to implement Title VI of the Civil Rights Act of 1964 (Title VI) and the pertinent regulations of DOE so that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance of the type subject to Title VI. This subpart also implements Section 16 of the Federal Energy Administration Act of 1974, as amended (Section 16) and Section 401 of the Energy Reorganization of 1974 (Section 401) so that no person shall be excluded on the ground of sex from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance subject to Section 16 or 401. The coverage of employment practices is explained in § 1040.14.

(b) The application of this subpart is to delivery of services by and the covered employment practices of recipients and subrecipients administering, participating in, or substantially benefiting from any program or activity receiving Federal financial assistance under laws administered by DOE covered by Title VI. In addition to services and employment practices, this subpart applies to any activities of recipients or subrecipients receiving Federal financial assistance subject to Section 16 and Section 401.

§ 1040.12 Definitions.

(a) "Covered employment" means employment practices covered by Title VI, Section 16 and Section 401.

(1) Under Title VI, such practices are those which—

(i) exist in a program where a primary objective of the Federal financial assistance is to provide employment; or

(ii) cause discrimination on the basis of race, color, or national origin with respect to beneficiaries or potential beneficiaries of the assisted program.

(2) Under Section 16 and Section 401, such practices include, but are not limited to, employment practices covered by Title VI when alleging discrimination on the basis of sex. All employment practices of a recipient or subrecipient of Federal financial assistance subject to Section 16 and Section 401 are covered employment practices.

(b) "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* which prohibits discrimination on the ground of race, color or national origin in programs and activities receiving Federal financial assistance. The definitions set forth in § 1040.3 of Subpart A to the extent not inconsistent with this subpart, are applicable to and incorporated into this subpart.

§ 1040.13 Discrimination prohibited

(a) *General.* No person in the United States shall be excluded on the ground of race, color, national origin, or sex (when covered by Section 16 or Section 401), from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

(b) *Specific discriminatory action prohibited.* A recipient under any program to which this subpart applies may not, directly or through contractual or other arrangements, on the ground of race, color, national origin or sex (when covered by Section 16 or Section 401):

(1) Deny any individual any disposition, service, financial aid, or benefit provided under the program;

(2) Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(3) Subject an individual to segregation or separate treatment in any matter related to his/her receipt of any disposition, service, financial aid, or benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit under the program;

(5) Treat an individual differently from others in determining whether such individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function or benefit provided under the program;

(6) Deny an individual an opportunity to participate in the program through the provision of services or otherwise afford such individual an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in Sec. 1040.14 of this subpart); or

(7) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(c) A recipient, in determining the type of Federal financial assistance (i.e., disposition, services, financial aid, benefits, or facilities) which will be provided under any program, or the class of individuals to whom, or the situations in which the assistance will be provided, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to

discrimination because of their race, color, national origin, or sex (when covered by Section 16 and Section 401) or have the effect of defeating or substantially impairing accomplishment of the program objectives with respect to individuals of a particular race, color, national origin, or sex (when covered by Section 16 or Section 401).

(d) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination because of race, color, national origin, or sex (when covered by Section 16 or 401) or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or this subpart.

(e) For the purpose of this section, the disposition, services, financial aid, or benefits provided under a program receiving Federal financial assistance include any portion of any program, function, or activity conducted by a recipient of Federal financial assistance in which the program, function, or activity is directly or indirectly improved, enhanced, enlarged, or benefited by the Federal financial assistance or by which the recipient makes use of any facility, equipment or property provided with the aid of Federal financial assistance.

(f) The enumeration of specific forms of prohibited discrimination in this paragraph and in § 1040.14 of this subpart does not limit the generality of the prohibition in paragraph (a) of this section.

(g) *Exemptions*—Exclusion from programs for protected groups. An individual is not to be considered subjected to discrimination by reason of his/her exclusion from the benefits of a program limited to individuals of a particular race, color, national origin or sex different from his/hers when the exclusion is provided for or required by Federal law, for example, programs funded exclusively to serve on-reservation Indians.

§ 1040.14 Covered employment.

(a) *Employment practices.* (1) Whenever a primary objective of the Federal financial assistance to a program to which this subpart applies is to provide employment, a recipient of the assistance may not (directly or through contractual or other arrangements) subject any individual to discrimination on the grounds of race, color, national origin, or sex (when covered by Section 16 and Section 401) in its employment practices under the program (including recruitment or recruitment advertising, employment, layoff, or termination, upgrading, demotion or transfer, training, participation in upward mobility programs, rates of pay or other forms of compensation, and use of facilities). This prohibition also applies to programs where the primary objective of the Federal financial assistance is—

(i) To assist individuals through employment to meet expenses incident to the commencement or continuation of their education or training;

(ii) To provide work experience which contributes to the education or training of the individuals involved;

(iii) To reduce the unemployment of individuals or to help them through employment to meet subsistence needs; or

(iv) To provide employment to individuals who, because of handicaps, cannot be readily absorbed in the competitive labor market. The requirements applicable to construction under any such program are to be those specified in or under Part III of Executive Order 11246, as amended, or any Executive Order which supersedes it.

(2) In regard to Federal financial assistance which does not have provision of employment as a primary objective, the provisions of paragraph (a)(1) of this section apply to the employment practices of the recipient if discrimination on the ground of race, color, national origin, or sex (when covered by Section 16 or Section 401) in such employment practices tends to exclude persons from participation in, deny them the benefits of, or subject them to discrimination under the program receiving Federal financial assistance. In any such case, the provisions of paragraph (a)(1) of this section apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

(3) Paragraph (a)(1) also applies to covered employment as defined in § 1040.12(a)(2).

(b) Enforcement of Title VI compliance with respect to covered employment practices is not to be superseded by State or local merit systems relating to the employment practices of the same recipient.

Subpart C—Nondiscrimination on the Basis of Sex—Title IX of the Education Amendments of 1972, as Amended

§ 1040.21 Purpose.

The purpose of this subpart is to implement Title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by Pub. L. 93–568, and Pub. L. 94–482, which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not the program or activity is offered or sponsored by an educational institution as defined in this subpart.

§ 1040.22 Application.

Except as provided in § 1040.25, § 1040.26, and § 1040.27, this subpart applies to every recipient and to each education program or activity operated by the recipient which receives or benefits from Federal financial assistance.

§ 1040.23 Definitions.

(a) "Title IX" means Title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by Sec. 3 of Pub. L. 93–568, 88 Stat. 1855, (except Sec. 904 and Sec. 906 of the Amendments), 20 U.S.C. Secs. 1681, 1682, 1683, 1685, and 1686.

(b) "Educational Institution" means a local educational agency (L.E.A.) as defined by Section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a pre-school, a private elementary or secondary school, or an applicant or recipient of the type defined by subsections (c), (d), (e), or (f) of this section.

(c) "Institution of graduate higher education" means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in the field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(d) "Institution of undergraduate higher education" means:

(1) An institution offering at least two, but less than four years of college level study beyond the high school level leading to a diploma or an associate degree or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(e) "Institution of professional education" means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(f) "Institution of vocational education" means a school or institution (except an institution of professional, graduate, or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semi-skilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers full time study.

(g) "Administratively separate unit" means a school, department, or college of an educational institution (other than a local educational agency), admission to which is independent of admission to any other component of the institution.

(h) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

(i) "Student" means a person who has gained admission.

(j) "Transition plan" means a plan subject to the approval of the United States Commissioner of Education under Sec. 901(a)(2) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination. The definitions set forth in § 1040.3 of Subpart A of this Part, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 1040.24 Effects of Other Requirements.

(a) Effect of other Federal provisions. The obligations imposed by this subpart are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Title VII of the Civil Rights Act of 1964 (42 U.S.C., Sec. 2000e, *et seq.*); Executive Order 11246, as amended; Sec. 799A and Sec. 845 of the Public Health Service Act (42 U.S.C. 295h–9 and 298b–2); the Equal Pay Act (29 U.S.C. 206 and 206(d); and any other Act of Congress or Federal regulation.

(b) Effect of state or local law or other requirements. The obligation to comply with this subpart is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) Effect of rules or regulations of private organizations. The obligation to comply with this subpart is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league or association, which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

§ 1040.25 Educational institutions controlled by religious organizations.

(a) *Application.* This subpart does not apply to an educational institution which is controlled by a religious organization to the extent that application of this subpart would not be consistent with the religious tenets of such an organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section is to do so by submitting, in writing, to the Director a statement by the highest ranking official of the institution identifying the provisions of this subpart which conflict with a specific tenet of the religious organization.

§ 1040.26 Military and merchant marine educational institutions.

This subpart does not apply to an educational institution whose primary purpose is the training of individuals for military service of the United States or for the merchant marine.

§ 1040.27 Membership practices of certain organizations.

(a) Social fraternities and sororities. This subpart does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under Sec. 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) Y.M.C.A., Y.W.C.A., Girl Scouts, Boy Scouts, and Camp Fire Girls. This subpart does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts, and the Camp Fire Girls.

(c) Voluntary youth service organizations. This subpart does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under Sec. 501(a) of the Internal Revenue Code of 1954, the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

§ 1040.28 Admissions.

(a) Admission to education institutions prior to June 24, 1973 are not covered by this subpart.

(b) *Administratively separate units.* For the purposes, only, of this section, § 1040.28 and § 1040.29, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of § 1040.31 through § 1040.33.* Except as provided in paragraphs (c) and (d) of this section, § 1040.31 through § 1040.33 apply to each recipient. A recipient to which § 1040.31 through § 1040.33 apply shall not discriminate on the basis of sex in admission or recruitment in violation of those sections.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, § 1040.31 through § 1040.33 apply only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Section 1040.31 through § 1040.33 do not apply to any public institutions of undergraduate higher education which, traditionally and continually from its establishment, has had a policy of admitting only students of one sex.

§ 1040.29 Educational institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which § 1040.31 through § 1040.33 apply which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but after that admitted as regular students individuals of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies is not to discriminate on the basis of sex in admission or recruitment in violation of § 1040.31 through § 1040.33 unless it is carrying out a transition plan approved by the

United States Commissioner of Education as described in § 1040.30, which plan provides for the elimination of discrimination by the earliest practicable date but in no event later than 90 days following final publication of this regulation.

§ 1040.30 Transition plans.

(a) *Submission of plans.* Any institution to which Sec. 1040.28 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all units or separate transition plans applicable to each unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan is to:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting the plan, the administratively separate units to which the plan is applicable, the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes as regular students and, if so, when it began to do so.

(3) Identify and describe, with respect to the educational institution or administratively separate unit, any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle indentified and indicate the schedule for taking these steps and the individual responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 1040.29 applies is to result in treatment of applicants to, or students of, the recipient in violation of § 1040.31 through § 1040.33 unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 1040.29 applies is to include in its transition plan and implement specific steps designed to encourage individuals of the previously excluded sex to apply for admission to the institution. The steps are to include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

§ 1040.31 Discrimination on the basis of sex in admission and recruitment prohibited: admission.

(a) *General.* No person shall, on the basis of sex, be denied admission or be subjected to discrimination in admission by any recipient to which § 1040.31, § 1040.32, and § 1040.33 apply, except as provided in § 1040.29 and § 1040.30.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which § 1040.31, § 1040.32, and § 1040.33 apply shall not—

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on that basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Deny an equal opportunity for admission on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionate adverse effect on persons on the basis of sex unless the use of the test or criterion is shown to predict validly success in the education program or activity and alternative tests or criteria which do not have a disproportionate adverse affect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which § 1040.31, § 1040.32, and § 1040.33 apply:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any persons on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; or

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admission but only if the inquiry is made equally of applicants of both sexes and if the results of the inquiry are not used in connection with discrimination prohibited by this subpart.

§ 1040.32 Preference in admission.

A recipient to which § 1040.31, § 1040.32, and § 1040.33 apply shall not give preference to applicants for admission on the basis of attendance at any educational institution or other school or entity which admits as students or predominantly members of one sex if the giving of such preference has the effect of discriminating on the basis of sex in violation of § 1040.31, § 1040.32, and § 1040.33.

§ 1040.33 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which § 1040.31, § 1040.32, and § 1040.33 apply shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action under § 1040.7(a) and may choose to undertake these efforts as affirmative action under § 1040.7(b).

(b) *Recruitment at certain institutions.* A recipient to which § 1040.31, § 1040.32, and § 1040.33 apply shall not recruit primarily or exclusively at educational institutions, schools, or entities which admit as students only or predominantly members of one sex, if these actions have the effect of discriminating on the basis of sex in violation of § 1040.31, § 1040.32, and § 1040.33.

§ 1040.34 Education programs and activities.

(a) *General.* Except as provided elsewhere in this subpart, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of—

(1) A recipient to which § 1040.31, § 1040.32, and § 1040.33 do not apply; or

(2) An entity, not a recipient, to which § 1040.31, § 1040.32, and § 1040.33 would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in § 1040.34 through § 1040.45, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex—

(1) Treat one person differently from another in determining whether the person satisfies any requirement or condition for the provision of the aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution. A recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to members of one sex must provide, or otherwise make available, reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Programs not operated by recipient.* (1) This paragraph applies to recipients which require participation by any applicant or student in any education program or activity not operated wholly by the recipient, or which facilitates, permits, or considers participation in educational consortia and cooperative employment and student-teaching assignments.

(2) The recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of the recipient which this subpart would prohibit the recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider participation if such action occurs.

§ 1040.35 Housing.

(a) *General.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) a recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by the recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take reasonable action as may be necessary to assure itself that housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole:

(i) Proportionate in quantity; and

(ii) Comparable in quality and cost to the student. A recipient may render this assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

§ 104.36 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for students of one sex are to be comparable to the facilities provided for students of the other sex.

§ 1040.37 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation by any of its students on that basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as asessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports, the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have that effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

§ 1040.38 Access to schools operated by LEAs.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to—

(a) Any institution of vocational education operated by the recipient; or

(b) Any other school or educational unit operated by the recipient, unless the recipient otherwise makes available to a person, under the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through the schools.

§ 1040.39 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the

basis of sex in counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on the basis of sex unless the different materials cover the same occupations and interest areas and use of the different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take action to assure itself that the disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take action to assure itself that the disproportion is not the result of discrimination on the basis of sex in counseling, appraisal materials, or by counselors.

§ 1040.40 Financial Assistance.

(a) *General.* Except as provided in paragraphs (b), (c), and (d) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amounts or types of assistance, limit eligibility for assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of the recipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for assistance which treats persons of one sex different from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which require that awards be made to members of a particular sex specified in those documents provided that the overall effect of the award of such sex-restricted scholarships, fellowships and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under paragraph (b)(a)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) Athletic scholarships.

(1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it shall provide reasonable opportunities for the awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams of members of each sex to the extent consistent with this section and § 1040.44 of this subpart.

§ 1040.41 Employment assistant to students.

(a) *Assistance by recipient in making available outside employment.* A recipient which assists any agency, organization or person in making employment available to any of its students—

(1) Shall assure itself that the employment is made available without discrimination on the basis of sex; and

(2) Shall not render services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient which employs any of its students shall assure itself that all employment is made available without discrimination on the basis of sex.

§ 1040.42 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex. This section is not to prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

§ 1040.43 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extra-curricular activity, on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require the student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as the certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its educational program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section, shall ensure that the instructional program in the separate program is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan, or policy which the recipient administers, operates, offers or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for a period of time considered medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

§ 1040.44 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by the recipient, and no recipient shall provide any athletics separately on the basis of sex.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex shall be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this subpart, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports, the purpose of major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the Director, FAPD, is to consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services; and

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams, if a recipient operates or sponsors separate teams, will not constitute noncompliance with this section, but the Director, FAPD, may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the elementary, secondary or post-secondary school level shall comply fully with this section as expeditiously as possible, but in no event later than one year from the effective date of this regulation.

§ 1040.45 Textbooks and curricular material.

Nothing in this regulation is to be interpreted as requiring, prohibiting, or abridging, in any way, the use of particular textbooks or curricular materials.

§ 1040.46 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated in this section by reference. These procedures may be found in Subparts G and H of this Part.

Employment Practices

§ 1040.47 Employment.

(a) *General.* (1) No person shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in recruitment, employment consideration, or selection, whether for full-time or part-time employment, under any educational program or activity operated by a recipient which receives or benefits from Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any education institution or entity which admits as students only or predominantly members of one sex, if giving of such preferences has the effect of discriminating on the basis of sex in violation of this Part.

(b) *Application.* The provisions of this subpart appply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for an award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

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

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

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

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

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

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

§ 1040.48 Employment criteria.

A recipient shall not administer or operate any text or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such

disproportionately adverse effect, are shown to be unavailable.

§ 1040.49 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

§ 1040.50 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

§ 1040.51 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in § 1040.57.

§ 1040.52 Fringe benefits.

(a) "Fringe Benefits" defined. For purposes of this Part, "fringe benefits" means: Any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service for employment not subject to the provision of § 1040.50.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

§ 1040.53 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time. At the conclusion of the leave of absence, the employee shall be reinstated to the status which she held when the leave began or to a comparable position without decrease in rate of compensation or loss of promotional opportunities or any other right or privilege of employment.

§ 1040.54 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the existence of any state or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

§ 1040.55 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question.

§ 1040.56 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this Part.

§ 1040.57 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart D—Nondiscrimination on the Basis of Handicap—Sec. 504 of the Rehabilitation Act of 1973, as Amended

General Provisions

§ 1040.61 Purpose and application.

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

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

§ 1040.62 Definitions.

(a) "Executive Order" means Executive Order 11914, titled "Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs" issued on April 28, 1976.

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

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

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

(1) "Physical or mental impairment" means—

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

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism, when current use of drugs and/or alcohol is not detrimental to or interferes with the employee's performance, nor constitutes a direct threat to property or safety of others.

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

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

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

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

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

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

(e) "Qualified handicapped person" means—

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

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

(i) of an age during which non-handicapped persons are provided such services;

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

(iii) to whom a state is required to provide a free appropriate public education under Sec. 612 of the Education for All Handicapped Children Act of 1975, Public Law 94–142.

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

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

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

(g) "Historic properties" means those architecturally, historically or culturally significant properties listed in or eligible for listing in the National Register of Historic Places or such properties designated under a statute of the appropriate State or local governmental body.

(h) "Building alterations" means those changes to the existing conditions and equipment of a building which do not involve any structural changes, but which typically improve and upgrade a building, such as alterations to stairways, doors, toilets, elevators, and site improvements.

(i) "Structural changes" means those changes which alter the structure of a historic building including, but not limited to, its bearing walls and all types of post and beam systems in wood, steel, iron or concrete.

The definitions set forth in § 1040.3 of Subpart A of this Part, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 1040.63 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance from DOE.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap—

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

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

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

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

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

to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

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

(2) For purposes of this Part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the person's needs.

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

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that—

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

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

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

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

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

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

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

(c) *Programs limited by Federal law.* The exclusion of non-handicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this Part.

(d) Recipients shall take appropriate steps to ensure that communications with their applicants, employees and handicapped persons participating in federally assisted programs of activities or receiving aids, benefits or services, are available to persons with impaired vision and hearing.

(e) 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.

§ 1040.64 Effect of State or local law or other requirements and effect of employment opportunities

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

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

(c) *Effect of other regulations.* All regulations, orders, or similar directions issued by any officer of DOE which impose requirements designed to prohibit discrimination against individuals on the grounds of race, color, national origin, sex, age or handicap under any program to which this Part applies, and which authorize the suspension, termination or refusal to grant or to continue Federal financial assistance under any program for failure to comply with these requirements, are superseded to the extent that discrimination is prohibited by this Part. Nothing in this Part is to relieve any person of the obligation assumed or imposed under any superseded regulation, order, instruction, or similar direction prior to the effective date of this Part. Nothing in this Part is to supersede the effective date of this Part. Nothing in this Part is to supersede Executive Order 10925, 11114, 11063, 11246, and regulations issued under these authorities, or supersede any other regulations or instructions which prohibit discrimination on the ground of race, color, national origin, sex, age, or handicap in any program or activity to which this Part does not apply.

§ 1040.65 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated in this section by reference. These procedures may be found in Subparts G and H of this Part.

Employment Practices

§ 1040.66 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination employment under any program or activity to which this subpart applies.

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

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

(b) *Specific activities.* The provisions of this subpart apply to:

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

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

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

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

(5) Leaves of absence, sick or otherwise;

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

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

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

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

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

§ 1040.67 Reasonable accommodation.

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

(b) Reasonable accommodation may include:

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

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

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

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

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

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

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

§ 1040.68 Employment criteria.

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

(b) A recipient shall select and administer tests concerning employment to best ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude or other factors the test purports to measure except where those skills are the factors that the test purports to measure.

§ 1040.69 Preemployment inquiries.

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

(b) When a recipient is taking remedial action to correct the effects of past discrimination, under § 1040.7 of Subpart A of this Part, or is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity under § 1040.7 of Subpart A of this Part, or when a recipient is taking affirmative action under Sec. 503 of the Rehabilitation Act of 1973, as amended, the recipient may invite applicants for employment to indicate whether, and to what extent, they are handicapped provided that:

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

(2) The recipient states clearly that the information is requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) Nothing in this section is to prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are subjected to the examination regardless of handicap or absence of handicap and results of the examination are used only in accordance with the requirements of this subpart.

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

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

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

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

Program Accessibility

§ 1040.71 Discrimination prohibited.

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

§ 1040.72 Existing facilities.

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

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 1040.73 or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped

persons in the most integrated setting appropriate.

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

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this Subpart, a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and the plan is to meet with the approval of the Director, Federally Assisted Programs Division, Office of Equal Opportunity, DOE. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

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

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

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

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

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

§ 1040.73 New construction.

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

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

(c) American National Standards Institute, Incorporated, accessibility standards. Design, construction, or alteration of facilities in conformance with the "American National Standard Specification for Making Buildings and Facilities Accessible to, and Useable by, the Physically Handicapped," published by the American National Standards Institute, Incorporated [ANSI A117.1–1961 (R1971); The standard has been approved by the Director, Office of the Federal Register, for incorporation in this subpart on January 17, 1979. A copy of the standard is on file in the Federal Register library] which is incorporated by reference in this Subpart, are to constitute compliance with paragraphs (a) and (b) of this section. Departures from the particular requirements of those standards by the use of other methods are to be permitted with the concurrence of the Director, FAPD, when it is clearly evident that equivalent accessibility and usability of the facility are provided.

§ 1040.74 Program accessibility in historic properties.

(a) *Methods to Accomplish Program Accessibility.* In the case of historic properties, program accessibility shall mean that when programs are viewed in their entirety, they are accessible to and usable by handicapped persons. The recipient shall exhaust Subsection (b)(1) (Methods to Accomplish Program Accessibility without Building Alterations or Structural Changes) before proceeding to Subsection (b)(2) (Methods to Accomplish Program Accessibility Resulting in Building Alterations). The recipient shall exhaust Subsection (b)(2) (methods to Accomplish Program Accessibility Resulting in Building Alterations) before proceeding to Subsection (b)(3) (Methods to Accomplish Program Accessibility Resulting in Structural Changes).

(1) Methods to Accomplish Program Accessibility without Building Alterations or Structural Changes. The recipient shall investigate compliance methods which do not alter the historic character or architectural integrity of the property and shall utilize such methods unless such methods are ineffective in achieving accessibility. Such methods may include, but are not limited to:

(i) Reassigning programs to accessible locations within the facility.

(ii) Assigning persons to aid handicapped persons into or through an otherwise inaccessible facility.

(iii) Delivering programs or activities at alternative accessible sites operated by or available for such use by the recipient.

(iv) Adopting other innovative methods which make programs accessible to the handicapped.

(2) Methods to Accomplish Program Accessibility Resulting in Building Alterations. The recipient shall determine that program accessibility cannot feasibly be accomplished by Methods to Accomplish Program Accessibility without Building Alterations or Structural Changes, Subsection (b)(1) prior to utilizing building alteration as a method of accomplishing program accessibility. Alterations must comply with the accessibility standards adopted in these regulations. Building alterations shall be undertaken so as not to alter or destroy historically, architecturally, or culturally significant elements or features.

(3) Methods to Accomplish Program Accessibility Resulting in Structural Changes. The recipient shall determine that program accessibility cannot feasibly be accomplished by Methods to Accomplish Program Accessibility without Building Alterations or Structural Changes, Subsection (b)(2) before considering structural changes as a method of accomplishing program accessibility. Structural changes must comply with the accessibility standards adopted in these regulations. Structural changes shall be undertaken so as not to alter or destroy historically, architecturally or culturally significant elements or features.

(b) *Modification or waiver of Accessibility Standards.* The applicability of the accessibility standards set forth in these regulations may be modified or waived on a case-by-case basis, upon application to the Director, FAPD, where the recipient can demonstrate that, because of the nature of the activity, the provision of access would be infeasible or would substantially impair the historic, architectural or cultural integrity of the historic property.

(National Historic Preservation Act of 1966, Pub. L. 89–665, 80 Stat 915, 16 U.S.C. 470; 11593, 3 CFR 1971 Comp., p. 154; 36 CFR Part 800)

Subpart E—Nondiscrimination on the Basis of Age—Age Discrimination Act of 1975, as Amended. [Reserved]

Subpart F—Nondiscrimination Under Title VIII of the Civil Rights Act of 1968, as Amended. [Reserved]

Subpart G—Program Monitoring

§ 1040.101 Compliance reviews.

(a) The Director shall periodically conduct compliance reviews of selected recipients of DOE Federal financial assistance.

(b) The Director shall seek to review those recipients which have the most serious equal opportunity problems which cause the greatest disparity in delivery of services on a nondiscriminatory basis. Selection for review is to be made on the basis of the following criteria, among others:

(1) The relative disparity between the percentage of minorities, women, or handicapped persons, in the relevant labor market, and the percentage of minorities, women, or handicapped persons, employed by the recipient if employment practices are covered by this Part;

(2) The percentage of individuals covered by the Age Discrimination Act of 1975, minorities, women and handicapped persons in the population receiving program benefits.

(3) The number and nature of discrimination complaints filed against a recipient with DOE or other Federal agencies;

(4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with DOE against a recipient; and

(5) The amount of assistance provided to the recipient.

(c) After selection of a recipient for review, the Director Federally Assisted Programs Division or the Director's designee, shall inform the recipient of the selection. The notice shall be in writing and posted thirty days prior to the scheduled review. The letter will ordinarily request data pertinent to the review and advise the recipient of:

(1) The practices to be reviewed;

(2) The programs or activities affected by the review;

(3) The opportunity to make, at any time prior to receipt of DOE's finding, a written submission responding to DOE which explains, validates, or otherwise addresses the practices under review; and

(4) The schedule under which the review will be conducted and a determination of compliance or noncompliance made.

(d) Within 90 days of arriving on-site to conduct the review, the Director, FAPD, shall advise the recipient, in writing, of:

(1) Preliminary findings;

(2) Where appropriate, recommendations for achieving voluntary compliance; and

(3) The opportunity to request DOE to engage in voluntary compliance negotiations prior to the Director's final determination of compliance or noncompliance. The Director or the Director's designee shall notify the Assistant Attorney General at the same time the recipient is notified of any matter where recommendations for achieving voluntary compliance are made.

(e) If, within 45 days of the recipient's notification under paragraph (d) of this section, the Director's (FAPD) recommendations for compliance are not met, or voluntary compliance is not secured, or the preliminary findings are not shown to be false, the matter will be forwarded to the Director for a determination of compliance or noncompliance. The determination is to be made no later than 60 days after the recipient has been notified of the preliminary findings. If the Director makes a determination of noncompliance, the Department shall institute actions specified in Subparts G and H.

(f) Where the Director makes a formal determination of noncompliance, the recipient and the Assistant Attorney General shall be immediately advised, in writing, of the determination and of the fact that the recipient has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been achieved within the 10 days, the Director shall institute proceedings under Subpart H.

(g) All agreements to come into voluntary compliance shall be in writing and signed by the Director and an official who has authority to legally bind the recipient.

§ 1040.102 Compliance information.

(a) *Cooperation and assistance.* Each responsible Departmental official shall, to the fullest extent practicable, seek the cooperation of recipients in obtaining compliance with this Part and shall provide assistance and guidance to recipients to help them comply voluntarily with this Part.

(b) *Compliance reports.* Each recipient shall keep reports and submit to the responsible Department official or his/her designee, timely, complete, and accurate compliance reports at the times, in such form, and containing information as the responsible Department official or the designee may determine to be necessary to enable him/her to ascertain whether the recipient has complied or is complying with this Part. In general, recipients should have available for DOE data on program participants, identified by race, color, national origin, sex, age and handicap status. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient or subcontracts with any other person or group, such other recipient shall also submit compliance reports to the primary recipient which will enable the primary recipient to carry out its obligations under this Part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his/her designee during normal business hours to books, records, personnel records, accounts, other sources of information, and its facilities, which are pertinent to ascertain compliance with this Part. The requirement for access to sources of information shall be contained in the certificate of assurance and agreed to by the recipient as a condition to award. Whenever any information required of a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution, or person fails or refuses to furnish that information, the recipient shall certify this in its report and set forth the efforts which it has made to obtain the information. The sub-recipient in such case shall be subject to proceedings described under Subpart H of this Part.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons information regarding the provisions of this section and its applicability to the program under which the recipient receives Federal financial assistance. Information is to be made available to beneficiaries, participants, and other interested persons in a manner which the responsible Department officials find necessary to inform such persons of the protections against discrimination assured them by this Part and the statutes to which this Part applies.

§ 1040.103 [Reserved]

§ 1040.104 Complaint investigation.

(a) The Director, FAPD, shall investigate complaints of discrimination that allege a violation of—

(1) Title VI of the Civil Rights Act of 1964, Sec. 16 of the Federal Energy Administration Act of 1974, as amended,

or Sec. 401 of the Energy Reorganization Act of 1974;

(2) Title IX of the Education Amendments of 1972, as amended;

(3) Section 504 of the Rehabilitation Act of 1973, as amended;

(4) Age Discrimination Act of 1975, as amended, (reserved in this Part);

(5) Title VIII of the Civil Rights Act of 1968, as amended, (reserved in this Part);

(6) This Part; and

(7) Civil rights provisions of statutes administered pursuant to the DOE Organization Act, Pub. L. 95–91.

(b) No complaint will be investigated if it is received by an appropriate Departmental official more than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Director, FAPD, for good cause shown. Where a complaint is accepted for investigation, the Director, FAPD, will initiate a DOE investigation. The Director, FAPD, who is responsible for the investigation, shall notify the complainant, in writing, if the complaint has been accepted or rejected.

(c) The Director, FAPD, or his/her designee shall conduct investigations of complaints as follows:

(1) Within 35 days of receipt of a complaint, the Director, FAPD, shall:

(i) determine whether DOE has jurisdiction under paragraphs (a) and (b) of this section;

(ii) If jurisdiction is not found, wherever possible, refer the complaint to the Federal agency with such jurisdiction and advise the complainant;

(iii) If jurisdiction is found, notify the recipient alleged to be discriminating of receipt of the complaint; and

(iv) Initiate the investigation.

(2) The investigation will ordinarily be initiated by a letter requesting data pertinent to the complaint and advising the recipient of:

(i) The nature of the complaint and, with the written consent of the complainant, the identity of the complainant. The identity of the complainant may be revealed by the Director, FAPD, OEO, without the complainant's written consent if the Director, FAPD, OEO, determines that such action is necessary for resolution of the complaint;

(ii) The program or activities affected by the complaint;

(iii) The opportunity to make, at any time prior to receipt of DOE's findings, a documentary submission responding to, rebutting, or denying the allegations made in the complaint; and

(iv) The schedule under which the complaint will be investigated and a determination of compliance made.

(3) Within 90 days of initiating the investigation, the Director, FAPD, shall advise the recipient, in writing of:

(i) Preliminary findings;

(ii) Where appropriate, recommendations for achieving voluntary compliance; and

(iii) The opportunity to request DOE to engage in voluntary compliance negotiations prior to the Director's final determination of compliance or noncompliance. The Director or the Director's designee shall notify the Assistant Attorney General and the recipient of any matter where recommendations for achieving voluntary compliance are made.

(4) If, within 45 days of the recipient's notification under paragraph (c)(3) of this section, the Director's (FAPD) recommendations for compliance are not met, or voluntary compliance is not secured, or the preliminary findings are not shown to be false, the matter will be forwarded to the Director, OEO, for a determination of compliance or noncompliance. The determination is to be made no later than 60 days after the recipient has been notified of the preliminary findings. If the Director makes a determination of noncompliance, the Department shall institute actions specified in Subpart H.

(5) Where the Director makes a formal determination of noncompliance, the recipient and the Assistant Attorney General shall be immediately advised, in writing, of the determination and of the fact that the recipient has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been achieved within the 10 days, the Director shall institute proceedings under Subpart H. All agreements to come into voluntary compliance shall be in writing and signed by the Director, OEO, and an official who has authority to legally bind the recipient. The complainant shall also be notified of any action taken including the closing of the complaint or achievement of voluntary compliance.

(6) If the complainant or party other than the Attorney General has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to DOE, and if during DOE's investigation, the trial of that suit would be in progress, DOE will consult with the Assistant Attorney General and court records to determine the need to continue or suspend the investigation and will monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of discrimination against a recipient that would constitute a violation of this Part, the DOE may institute administrative proceedings as specified in Subpart H after DOE has advised the recipient, in writing, of an opportunity to request voluntary compliance under this section. All agreements to come into voluntary compliance shall be in writing and signed by the Director and an official who has authority to legally bind the recipient.

(7) The time limits listed in paragraphs (c)(1) through (c)(6) of this section shall be appropriately adjusted where DOE requests another Federal agency to act on the complaint. DOE is to monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, DOE is to institute appropriate proceedings as required by this Part.

(d) *Intimidatory or retaliatory acts prohibited.* No 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 the laws implemented in this Part or because the complainant has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants is to be kept confidential except as determined by the Director, FAPD, to be necessary to carry out the purpose of this subpart, including investigations, hearings, or judicial proceedings arising thereunder.

Subpart H—Enforcement

Means of Effecting Compliance

§ 1040.111 Means available.

If there appears to be a failure or threatened failure to comply with any of the provisions of this Part, and if the noncompliance or threatened noncompliance cannot be corrected by voluntary means, compliance with this Part may be effected by the suspension, termination of, or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to—

(a) 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 including the Civil Rights Act of 1964, other statutes to which this Part applies, or any assurance or other contractual undertaking; and

(b) Any applicable proceeding under State or local law.

§ 1040.112 Noncompliance with assurances.

If an applicant fails or refuses to furnish an assurance required under

§ 1040.4 of Subpart A of this Part, or otherwise fails or refuses to comply with a requirement imposed by this Part, such as § 1040.102(c), Subpart G of this Part, action to refuse Federal financial assistance shall be taken in accordance with procedures of § 1040.114 of this subpart.

§ 1040.113 Deferral.

DOE may defer action on pending applications for assistance in such a case during pendency of administrative proceedings under § 1040.114 of this subpart.

§ 1040.114 Termination of or refusal to grant or to continue Federal financial assistance.

No order suspending, terminating, or refusing to grant or continue Federal financial assistance is to become effective until—

(a) Informational notice of the proposed order is given to the Executive Assistant to the Secretary, if the action is contemplated against a State or local government;

(b) The Director has advised the applicant or recipient of his/her failure to comply and has determined that compliance cannot be secured by voluntary means. (It will be determined by the Director that compliance cannot be secured by voluntary means if it has not been secured within the time periods specifically set forth by this Part).

(c) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with the requirement imposed by or under this Part;

(d) The FERC has notified the Secretary of its finding of noncompliance; and

(e) The expiration of 30 days after the Secretary or a designee has filed with the committee of the House of Representatives and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend, terminate, or to refuse to grant or to continue Federal financial assistance is to be limited to the particular political entity or part of that entity or other applicant or recipient to whom the finding has been made and shall be limited in its effect to the particular program or part of the program in which the noncompliance has been found.

§ 1040.115 Other means authorized by law.

No action to effect compliance by any other means authorized by law is to be taken until—

(a) The Director has determined that compliance cannot be secured by voluntary means;

(b) The recipient or other person has been notified by the Director, in writing, that it has been found in formal noncompliance and that it has 10 days before formal enforcement proceedings begin in which to enter into a written voluntary compliance agreement.

(c) The expiration of at least ten (10) days from the mailing of the notice to the recipient or other person.

Opportunity for Hearing

§ 1040.121 Notice of opportunity for hearing.

(a) Whenever an opportunity for hearing is required by § 1040.113, the Director, OEO, or his/her designee shall serve on the applicant or recipient, by registered, certified mail, or return receipt requested, a notice of opportunity for hearing which will:

(1) Inform the applicant or recipient of the action proposed to be taken and of his/her right within twenty (20) days of the date of the notice of opportunity for hearing, or another period which may be specified in the notice, to request a hearing;

(2) Set forth the alleged item or items of noncompliance with this Part;

(3) Specify the issues;

(4) State that compliance with this Part may be effected by an order providing for the termination of or refusal to grant or to continue assistance, as appropriate, under the program involved; and

(5) Provide that the applicant or recipient may file a written answer with the Director, OEO, to the notice of opportunity for hearing under oath or affirmation within twenty (20) days of its date, or another period which may be specified in the notice.

(b) An applicant or recipient may file an answer, and waive or fail to request a hearing, without waiving the requirement for findings of fact and conclusions of law or the right to seek review by the FERC in accordance with the provisions established by the FERC. At the time an answer is filed, the applicant or recipient may also submit written information or argument for the record if he/she does not request a hearing.

(c) An answer or stipulation may consent to the entry of an order in substantially the form set forth in the notice of opportunity for hearing. The order may be entered by the General Counsel or his/her designee. The consent of the applicant or recipient to the entry of an order shall constitute a waiver by him/her of a right to—

(1) A hearing under Sec. 902 of Title IX of the Education Amendments of 1972, Section 602 of Title VI of the Civil Rights Act of 1964, Section 16, Section 401 and § 1040.113;

(2) Findings of fact and conclusions of law; and

(3) Seek review by the FERC.

(d) The failure of an applicant or recipient to file an answer within the period prescribed or, if the applicant or recipient requests a hearing, his failure to appear at the hearing shall constitute a waiver by him/her of a right to—

(1) A hearing under Section 902 of Title IX of the Education Amendments of 1972, Section 602 of Title VI of the Civil Rights Act of 1964, Section 16, Section 401, and § 1040.113;

(2) Conclusions of law; and

(3) Seek review by the FERC.

In the event of such a waiver, the Secretary or a designee may find the facts on the basis of the record available and enter an order in substantially the form set forth in the notice of opportunity for hearing.

(e) An order entered in accordance with paragraphs (c) or (d) of this section shall constitute the final decision of DOE unless the FERC, within forty-five (45) days after entry of the order, issues a subsequent decision which shall then constitute the final decision of DOE.

(f) A copy of an order entered by the FERC official shall be mailed to the applicant or recipient and to the complainant, if any.

§ 1040.122 Request for hearing or review.

Whenever an applicant or recipient requests a hearing or review in accordance with § 1040.121(a)(1) or 1040.121(b), the DOE General Counsel or his/her designee shall submit such request along with other appropriate documents to the FERC.

§ 1040.123 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute noncompliance with this Part with respect to two or more programs to which this Part applies or noncompliance with this Part and the regulations of one or more other Federal departments or agencies issued to implement the requirements of the laws cited in this Part, the Secretary or a designee, in coordination with FERC may, by agreement with other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings and for the application to such hearings of rules of procedure not inconsistent with this Part. Final decision in such cases, insofar as programs subject to this Part are concerned, shall be made in

accordance with procedures established by the FERC.

§ 1040.124 Responsibility of the Federal Energy Regulatory Commission.

The FERC has authority under Section 402(b) of the DOE Organization Act, Pub. L. 95–91, to promulgate regulations regarding the conduct of hearings to deny or terminate Federal financial assistance. Rules for conduct of hearings will be published by the FERC and will be placed in 18 CFR.

Judicial Review

§ 1040.131 Judicial review.

Final DOE actions taken under this Part to withhold or terminate Federal financial assistance are subject to judicial review under the following laws:

(a) Title VI—Section 603 of the Civil Rights Act of 1964;

(b) Title IX—Section 903 of the Education Amendments of 1972;

(c) Section 16, Section 401, Section 504—Pub. L. 89–554, 5 U.S.C. 702;

(d) Section 419 and Section 420 of the Energy Conservation and Production Act of 1976, as amended.

Appendix A.—Federal Financial Assistance of the Department of Energy to Which This Part Applies

1. Access Permits. Atomic Energy Act of 1954, as amended, Sections 1, 2, 3 and 161(i), Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2011–13, 2201; and Title I Section 104(c) of the Energy Reorganization Act of 1974, Public Law 93–438; 88 Stat. 1237; 42 U.S.C. 5814; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

2. Motion Pictures Film Libraries. Atomic Energy Act of 1954, as amended, Public Law 83–703, Sections 3 and 141(b), (68 Stat. 919), 42 U.S.C. 2013 and 2161; the Energy Reorganization Act of 1974, Public Law 93–438, Title I, Sections 103 and 107, (88 Stat. 1240), 42 U.S.C. 5817; Department of Energy Organization Act, Public Law 95–91, Title I, Section 102, and Title III, Section 301, (19 Stat. 565), 42 U.S.C. 7101; the National Energy Extension Service Act, Title V, Public Law 95–39, (91 Stat. 191), 42 U.S.C. 7001.

3. Granting of Patent Licenses. Atomic Energy Act of 1954, as amended, Sections 156 and 161(g); Public Law 83–703; 68 Stat. 919, 42 U.S.C. 2186 and 2201; Federal Nonnuclear Energy Research and Development Act of 1974; Section 9(f)(g)(h); Public Law 93–577; 88 Stat. 1887; 42 U.S.C. 5908(f)(g)(h); Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

4. University Laboratory Cooperative Program. Atomic Energy Act of 1954, as amended, Section 31 (a) and (b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

5. Facility Training Institutes, Short Courses, and Workshops on Energy and Environmental Subjects. Atomic Energy Act of 1954, as amended, Section 31 (a) and (b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; 42 U.S.C. 7101; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

6. Reactor Sharing and Fuel Assistance. Atomic Energy Act of 1954, as amended, Section 31 (a) and (b), Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438, 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

7. Traineeships for Graduate Students in Energy Related Fields. Atomic Energy Act of 1954, as amended, Sections 31 (a) (b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–458; 88 Stat. 1240; 42 U.S.C. 5817; Public Law 93–409, Section 12(a); Public Law 94–163, Section 337; Public Law 93–577, Section 4(d); Public Law 93–275, Section 5; Public Law 95–39, Title V, Section 502(7); Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

8. Energy Related Laboratory Equipment Grants. Atomic Energy Act of 1954, as amended, Section 31 (a) and (b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

9. Information Services Exhibits, Public Speakers Publications, Reference and Analysis. Atomic Energy Act of 1954, as amended, Section 3 and 141b; Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2013 and 2161; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

10. Payments in Lieu of Property Taxes. Atomic Energy Act of 1954, as amended, Section 168; Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2208; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act; 42 U.S.C. 7101; Public Law 95–91.

11. Radiological Emergency Assistance. Atomic Energy Act of 1954, as amended, Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2011 et seq.; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

12. Nuclear Industry Seminars. Atomic Energy Act of 1954, as amended, Section 141(b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2161, and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438, 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

13. Work Experience. Atomic Energy Act of 1954, as amended, Section 3, Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2013; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act; 42 U.S.C. 7101; Public Law 95–91.

14. Citizens: Workshops. Atomic Energy Act of 1954, as amended, Public Law 83–703, Section 3 and 141(b), 68 Stat. 919; 42 U.S.C. 2013 and 2161; the Energy Reorganization Act of 1974; Public Law 93–438, Title I, Section 103 and 107, 88 Stat. 1240; 42 U.S.C. 5817, Department of Energy Organization Act, Public Law 95–91, Title I, Section 102, and Title III, Section 301, 91 Stat. 565; 42 U.S.C. 7101; the National Energy Extension Service Act, Title V, Public Law 95–39, 91 Stat. 191; 42 U.S.C. 7001.

15. Research and Development in Energy Conservation. Atomic Energy Act of 1954, as amended, Section 31; Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

16. Energy Related Inventions. Section 14 of the Federal Non-Nuclear Energy Research and Development Act of 1974; Public Law 93–577; 68 Stat. 1894; 42 U.S.C. 5913; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

17. Research and Development Fission, Fossil, Solar, Geothermal, Electric and Storage Systems, Magnetic Fusion. Amendments to the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

18. Energy Information Administration Clearinghouse (EIAC). Department of Energy Organization Act, Section 205; Public Law 95–91.

19. National Energy Information Center (NEIC). Federal Energy Administration Act of 1974, as amended, Section 20(a)(4); Public Law 93–175; 15 U.S.C. 779; Department of Energy Organization Act, Section 301; Public Law 95–91.

20. Grants for Offices of Consumer Services. Title II, Section 205 of the Energy Conservation and Production Act, Public Law 94–385; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

21. State Energy Conservation Program. Title III, Sections 361–366, Part C of the Energy Policy and Conservation Act, Public Law 94–163; 42 U.S.C. 6321–6326; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

22. Weatherization Assistance Program for Low Income Persons. Title IV, Part A of the Energy Conservation and Production Act, Public Law 94–385; 42 U.S.C. 6861–6870; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

23. Supplemental State Energy Conservation Program. Title IV, Section 432(a), Part B of the Energy Conservation and Production Act of 1976, Public Law 94–385; 42 U.S.C. 6801 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

24. Public Education in Energy. Atomic Energy Act of 1954, as amended, Sections 31(a) and 31(b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107 of the Energy Reorganization Act of 1974; Public

Law 93–458; 88 Stat. 1240; 42 U.S.C. 5817; Public Law 93–409, Section 12(a); Public Law 94–163, Section 337; Public Law 93–577, Section 4(d); Public Law 93–275, Section 5; Public Law 95–39, Title V, Section 502(7); Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

25. Special Studies and Projects in Energy Education and Training. Atomic Energy Act of 1954, as amended, Sections 31(a) and 31(b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107 of the Energy Reorganization Act of 1974; Public Law 93–458; 88 Stat. 1240; 42 U.S.C. 5817; Public Law 93–409, Section 12(a); Public Law 93–163, Section 337; Public Law 93–577, Section 4(d); Public Law 93–275, Section 5; Public Law 95–39, Title V, Section 502(7).

26. Research and Development in Biomedical and Environmental Sciences. Atomic Energy Act of 1954, as amended, Section 31; Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

27. Preface (Pre-Freshman and Cooperative Education for Minorities In Engineering). Atomic Energy Act of 1954, as amended, Sections 31(a) and 31(b); Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107 of the Energy Reorganization Act of 1974; Public Law 93–458; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, Public Law 95–91, Sections 102 and 203; Public Law 93–409, Section 12(a); Public Law 94–163, Section 337; Public Law 93–577, Section 4(d); Public Law 93–275, Section 5; Public Law 95–39, Title V, Section 502(7).

28. Materials Allocation. Section 104, Energy Policy and Conservation Act (EPCA), Section 101(c) Defense Production Act of 1950, as amended (DPA), 50 U.S.C. 2071(c), Section 7, Executive Order 11912, April 13, 1976. Defense Mobilization Order No. 13, September 22, 1976, 41 FR 43720; Department of Commerce, Bureau of Domestic Commerce, Delegation 4, 41 FR 52331, MA Regulations 10 CFR 216; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

29. Basic Energy Sciences, High Energy and Nuclear Physics, and Advanced Technology and Assessment Projects. Atomic Energy Act of 1954, as amended, Section 31; Public Law 83–703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93–438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act; 42 U.S.C. 7101; Public Law 95–91.

30. Energy Extension Service. National Energy Extension Service Act; Title V, Public Law 95–39; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95–91.

[FR Doc. 80–17842 Filed 6–12–80; 8:45 am]

BILLING CODE 6450–01–M

federal register

Friday
June 13, 1980

Part VII

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Parts 4, 5, and 7

[T.D. ATF-66; Ref: Notice No. 314]

Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages

AGENCY: Bureau of Alcohol, Tobacco, and Firearms (ATF).

ACTION: Final rule; Treasury decision.

SUMMARY: This rule amends 27 CFR Part 4, Part 5, and Part 7 (Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages under 27 U.S.C. 205 (e) and (f)). This rule requires ingredient disclosure on labels of wine, distilled spirits, and malt beverages. These regulations, however, provide an exception to this requirement. Under this exception the ingredient list will not be required to appear on the label when the producer, bottler, or importer: (1) elects to make an ingredient list available upon request; (2) places a statement on the front label or a separate strip label notifying the consumer of the availability of an ingredient list and provides the name and, somewhere on the label, a full mailing address in the United States where such an ingredient list can be obtained upon request; and (3) does not place a statement on the label which could be misconstrued to be an ingredient list. This exception gives industry maximum flexibility to provide ingredient information at minimum cost. At the same time, it provides consumers who have the need or desire to avoid various ingredients a means to do so, thus meeting the objective of the regulatory proposal. Because of special health problems, this rule also mandates the disclosure on the label, in all instances, of the presence of FD&C Yellow No. 5 whenever it is used in a product.

DATE: October 14, 1980.

FOR FURTHER INFORMATION CONTACT: Norman Blake or Roger Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms, Washington, DC 20226, 202–566–7626.

SUPPLEMENTARY INFORMATION:

I. Background

The Department published in the **Federal Register** on February 2, 1979 (44 FR 6740), a notice of proposed rulemaking entitled "Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages for Partial Ingredient Labeling" (Notice No. 314). The proposed requirements were intended to assist consumers in identification of ingredients used in wine, distilled spirits, and malt beverages, particularly those consumers who are concerned about possible allergic reactions to certain ingredients. The proposal was developed after one consumer group pointed out that most foods and beverages were required to have all ingredients disclosed on the label and that there were health and consumer reasons to have the same requirements apply to alcoholic beverages.

The 1979 proposed regulations conformed in many instances with food labeling regulations of the Food and Drug Administration and proposals made earlier (Notice No. 271 (40 FR 6349), February 11, 1975; Notice No. 272 (40 FR 6354), February 11, 1975; and Notice No. 149 (39 FR 27812), August 1, 1974) by the Department. Notice No. 314 proposed that all ingredients, except "incidental additives," used in the production of alcoholic beverages be listed on the label of the alcoholic beverage. However, Notice No. 314 proposed important modifications from earlier notices in order to minimize cost burdens on industry. The important modifications were: no order of predominance was required; the list could appear on the front, back, or strip label; under certain conditions ingredients added to adjust natural deficiencies (e.g. sugar in grapes) of essential components need not be listed; producers were allowed to take advantage of seasonal price fluctuations in essential components by listing a range of possible components instead of being required to change the label each time the essential component was changed (shot-gun labeling); the amount of sodium need not be disclosed in parts per million; and the proposal allowed a three-year transition period after final rules were published. Notice No. 314 also required an authorized official of the foreign country of origin to certify that the list of ingredients on imported alcoholic beverages is accurate. Because of requests for extensions, the initial 60-day comment period was extended by 120 days and finally expired on August 3, 1979.

Notice No. 314 raised two basic issues which were addressed by persons providing comments, and by the Treasury in analyzing and acting on the proposal. The first issue was whether alcoholic beverage producers should be required to disclose ingredients used in their products. Is there a need for ingredient disclosure, and is it cost efficient to require this information on every label? The second issue concerned the details of disclosure. For example, should ingredients be listed in the order of predominance, should shot-gun labeling be permitted, and should there be incidental additives/adjuncts which need not be listed?

II. Comments

During the comment period, the Department received 1,873 comments from consumers, special interest groups, industry members, doctors, government agencies and members of Congress. Approximately 75 percent of the comments opposed mandatory ingredient labeling for alcoholic beverages.

Comments in favor: Reasons given favoring the proposal generally indicated that the consumer has a "right to know" what he/she is consuming. Approximately 20 percent of the comments in favor of the proposal gave medical reasons—i.e., an individual who is allergic to ingredients used in alcoholic beverages could avoid those ingredients and thus avoid medical problems. Some also wrote in favor under the belief that a warning label was being proposed and that for religious and personal reasons they were opposed to any type of alcoholic beverages. Members of the malt beverage industry, while suggesting some modifications, generally supported the proposal.

Comments in opposition: Approximately 60 percent of those who opposed said the requirement was too expensive and inflationary; approximately 40 percent said it was unwanted and unjustified; approximately 10 percent said the industry is already too regulated; approximately 20 percent of those opposing the regulations gave personal reasons not related to the proposal (percentages exceed 100 percent since many comments involved more than one area of opposition). Members of the wine and distilled spirits industries were almost unanimous in their opposition to the proposal.

Many industry members, while objecting to the proposal, stated that they either do or would be willing to respond to any inquiries regarding product quality and the ingredients used in their products. One wine industry member commented, "We respond in detail, as I presume most wineries do, to those occasional consumer requests for specific facts. We would certainly pledge our full cooperation toward a mandated program of that nature."

III. Regulatory Analysis

Executive Order 12044 requires that a Regulatory Analysis be prepared on all regulations whose processing began after May 22, 1978, which have a major economic impact on the general economy, and are determined to be a significant regulatory project. Because of the controversy which has accompanied the concept of labeling ingredients on alcoholic beverages, the Treasury Department decided to conduct a Regulatory Analysis even though it was not required to do so by Executive Order 12044.

As a first step in the Regulatory Analysis, the Department prepared an outline of the analysis which included nine possible alternative ways of dealing with the problems. These alternatives were:

(1) No regulatory action; (2) Public educational programs—joint Department-industry effort where the Government would print pamphlets of general information and instruct interested persons to write producers, bottlers, or importers for specific product information; (3) Ingredient labeling, functional (additives/adjuncts), example: artificially colored, artificially flavored, preservatives added; (4) Ingredient labeling, additives/adjuncts only, no incidental additives/adjuncts; (5) Ingredient labeling, shot-gun listing of essential components and listing additives/adjuncts, but not incidental additives/adjuncts (as proposed in Notice No. 314); (6) Ingredient labeling, shot-gun listing of essential components and a listing of all additives/adjuncts; (7) Ingredient labeling, listing the essential components and additives/adjuncts, excluding additives found naturally in the essential components; (8) Ingredient labeling, listing the essential components and additives/adjuncts; and (9) Ingredient labeling, listing essential components and additives/adjuncts by order of predominance.

A copy of the full outline for the Regulatory Analysis is available for review at ATF Public Reading Room, Room 4408, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

ORC Consumer Poll

As a second step in the Regulatory Analysis, the Department decided to utilize an independent means to assist us in assessing whether consumers wanted ingredient labeling and wanted it enough to be willing to pay for the information. The Department selected a private specialized firm, the Opinion Research Corporation (ORC) of Princeton, New Jersey, to conduct a public opinion poll. The ORC survey was a telephone interview among a sample of 2,027 adults. The sample group was reflective of the demographic characteristics (sex, race, age, geographical region, income, and education) in the U.S. population.

The key findings of the survey as reported by ORC are:

1. About 6 drinkers in 10 (61%) believe listing ingredients on alcoholic beverage labels is at least somewhat necessary. Women are more likely to consider an ingredient listing necessary than men.

2. On the average, about one-third of the drinking public say they are unwilling to pay for ingredient labeling for alcoholic beverages and one-third had no opinion. Of the one-third of the drinkers who said they were willing to pay, more were willing to pay for ingredient labeling on a fifth of liquor (an average of 13.2 cents) than for labeling on a bottle of wine (12.5 cents) or a six-pack of beer (9.4 cents).

3. Almost 4 drinkers in 10 (39%) believe the Government's requirement of safe ingredients is sufficient. Thirty-six percent would also like ingredient labeling, 12 percent said they would like some other informational program; and 13 percent were not sure or did not know.

4. A majority of the drinking public (52%) say they usually or always use ingredient lists on packaged food products to compare different brands of the same product. Women (66%) are more likely to claim usage of such ingredient listings than are men (40%).

5. A majority of the drinkers (52%) say they probably or definitely would use ingredient lists on alcoholic beverage products. Again, women (59%) claim they would be more likely to use the lists than men (46%).

BDM Cost/Benefit Study

As the third step in the Regulatory Analysis the Department undertook a cost/benefit study. In order to have an independent assessment of the potential economic consequences of implementing partial ingredient labeling and the specific benefits that might accrue to society, the Department commissioned the BDM Corporation, McLean, Virginia, to study the costs and benefits for all the nine alternative approaches. The Department instructed BDM to analyze on the benefit side both the health costs and the consumer's desire to know and willingness to pay for the knowledge; and on the cost side to analyze what it would cost industry to implement the various options, specifying those costs to be passed on to consumers and the distribution of costs by size of producer.

The Department's conclusions as to the reasonableness of the cost and benefit estimates are given in the next section. The major findings of the BDM study are described below:

1. There are important unanswered questions for both costs and benefits which according to BDM can "lead to widely different conclusions on the desirability of ingredient labeling."

2. Estimates of expected costs of mandated ingredient labeling to industry and the Government based on the information submitted, range between a low of $12 million per year to almost $150 million per year. The major factors that contribute to this range of estimates are the use of a back label, advertisement costs, and mark-ups that might be applied by the industry at different points in the distribution channel. The "advertisement costs" were submitted directly to BDM by one winery after the comment period and from this one submission BDM estimated a total annual $25 million advertising cost for the entire wine industry.

3. Start-up costs amount to approximately $18 million for the entire industry if no additional back labels are used; if additional back labels are used by all producers not presently using back labels, the "total potential investment cost for the three industries, as reported by the industries, are in excess of $35 million."

4. BDM found "strong evidence" in the medical research literature that indicated "ingredients used in alcoholic beverages can cause adverse health effects in humans." BDM found that while most of the effects are not necessarily severe, some are severe. The study also reports that adverse effects are "not limited to allergic reactions." It is impossible, however, to determine exactly either how many people are affected (the range BDM gave is anywhere from 475,000 to 1,700,000) or how much money in health costs could be saved if ingredients were listed. (A wide range of estimates ranging from approximately one-half million dollars to four hundred million dollars was considered possible, depending on which assumptions were considered the most appropriate.)

5. The data on the extent to which consumers want ingredient labeling information are contradictory. BDM believed the comments received by the Department underestimated true consumer support and the opinion poll "probably overestimates true support." In an attempt to quantify consumer benefits, BDM suggested using data from the consumer poll in which one assumes that approximately one-third to one-half

of the consumers would be willing to pay between $0.50 and $2.00 per year. Using this approach BDM says the consumer benefits range between $31 million and $188 million per year.

6. Because of the "uncertainty" in the data, BDM suggests that policymakers estimate the reasonable ranges for each of the key cost and benefit factors as a means of calculating the cost/benefit ratio. The final chapter in the BDM study outlines the methodology for completing such an analysis.

Conclusions

The Department reached several conclusions from an analysis of the comments received in response to Notice No. 314, data in the ORC Consumer Poll, the BDM study, and discussions with other federal agencies:

1. The costs to the industry of mandated ingredient labeling would not be excessive, especially if compared to the industry's $40 billion dollar annual retail sales. The realistic range of annual costs goes from $12 million to $49 million depending upon whether one includes the cost of adding additional back labels. Many of the producers have indicated that they would implement the regulation by use of a back label. It is questionable whether this should be considered a "cost" of ingredient labeling because it is normally more feasible and less costly to include the required information on the front label. An apparent reason for not doing so may reflect a marketing decision to make the list less prominent. However, we recognize that if producers decide to add a back label the cost of the back label will ultimately be passed on to the consumer in the form of a price increase.

The cost to consumers, however, includes more than just the increased cost to producers in implementing ingredient labeling. The BDM study pointed out that at each level of the distribution system it is likely that sellers will mark-up the increased cost resulting from labeling, rather than merely passing it on. BDM also points out that mark-ups could be considered one of the "benefits" for industry members since mark-ups generate additional revenue. Even though legitimate questions exist as to the appropriateness of industry marking-up the cost of ingredient labeling, rather than merely passing the cost on to consumers, we believe that the decision should reflect the likelihood that mark-up will be a cost to consumers.

Claims made by parts of the wine industry during preparation of the BDM analysis that substantial advertising costs ($25 million annual) should be included as a cost of the regulation have been discounted. The wine industry's annual advertising expenditures are now approximately $100 million, and we did not find any convincing arguments that ingredient labeling would necessitate a 25 percent increase in industry advertising expenditures.

Based upon the above, the most reasonable estimate of costs (in millions) supplied by BDM are as follows:

With Back Label: With mark-up, $87 M; without mark-up, $49 M.

Without Back Label: With mark-up, $21 M; without mark-up, $12 M.

The relevant per unit costs range from .057 cents to .81 cents for a 750 ml bottle of distilled spirits; from .09 cents to .3 cents for a six-pack of 12 oz. cans of beer; and from .2 cents to 2 cents for a 750 ml bottle of wine.

2. Start-up costs are not substantial when compared to annual retail sales.

3. There is evidence that ingredients used in alcoholic beverages can have adverse effects for humans including, but not limited to, allergic reactions. It is impossible, however, to determine exactly either how many people are affected (the range BDM gave is anywhere from 475,000 to 1,700,000) or how much money in health costs could be saved if ingredients were listed. The Department believes the most reasonable estimates ranged from $12.5 million to $50 million a year. However, the Department is aware that BDM based its estimates, not on a completed analysis of potential health problems of the actual ingredients used in alcoholic beverages, but on an estimate derived from using The Task Force on Allergies' estimate of the number of people in the United States that are allergic (35 million), and a series of assumptions (the population and the ingredients in alcoholic beverages), which reduce this number of those who are likely to be allegic to ingredients in alcoholic beverages. While the precise level of harm to consumers cannot be established, the Department believes that consumers who are allergic to certain ingredients generally should be able to find out, whether from the label or some other source, if those ingredients are used in alcoholic beverages so that they can avoid the possibility of adverse reactions if they so choose.

4. There are ambiguous data on the extent to which consumers want ingredient information disclosed on a label. The consumer poll reveals most people want the labeling and say they would use it to determine which brands to purchase; but only one-third say they want to pay for it (one-third say they are not willing to pay and the other one-third did not know). While BDM suggested one could conclude from the ORC Consumer Poll that because some consumers were willing to pay something for ingredient labeling that the range for consumer benefit values should range from $31 million to $188 million. However, we also recognized that an equal number of the persons polled said they were unwilling to pay any additional money, thus raising doubts as to the validity of relying on this data.

5. Claims were made during the comment period that the proposed regulations would act as a non-tariff trade barrier. However, the Department considers that the regulations respond to a health issue and has taken steps to assure that any requirements are equally applicable to both domestic industry and foreign imports. Therefore, the department is proceeding in compliance with its international obligations.

IV. Treasury Decision

The Department is convinced that the disclosure of ingredients used in the production of alcoholic beverages is of real value. This disclosure will provide consumers with adequate information about the identity and quality of the product which will enable a consumer to make an informed choice in the purchasing of alcoholic beverages. However, the department also recognizes the uncertainties existing in the data underlying the health and consumer benefits. It has also considered the general policy of fully minimizing costs to industry and consumers in meeting regulatory objectives. Taking all these factors into consideration, this Treasury decision, while making various changes in response to the comments, adopts the ingredient labeling requirements substantially as proposed in 1979. However, to minimize the costs while still meeting basic policy objectives, producers, bottlers, or importers who elect to make ingredient lists available upon request, notify consumers of this availability, and who avoid implied label statements about ingredients, will not be required to list ingredients on the label. The new rules provide:

Basic Rule: All labels of alcoholic beverages must contain a list of ingredients in the manner specified in these regulations.

Exception: An ingredient list is not required on the label when the bottler or importer elects to furnish the ingredient information directly to the consumer upon request, and a statement in the following language conspicuously

appears on the front of the brand label, or on a strip label on the front of the bottle or container: "For Information About The Ingredients In This Product (wine, distilled spirits or malt beverages may be inserted for "product"), Write: *(insert name of addressee and mailing address in the United States with zip code where information is available, unless this address appears elsewhere on the bottle or container).*"

Requests for ingredient information should be responded to in a timely manner. Responses to a consumer request within 30 days would be considered timely.

In order to fall within this exception, no statements (other than mandatory information) may be made on the label which would appear to be a statement of ingredients. For example, if a beer label contains a statement such as "this beer is made from grains, hops and yeast," then the full ingredient list must be stated on the label. This limitation is intended to eliminate the possibility that such partial lists might be interpreted as a complete list of ingredients.

This exception can also be claimed only when the list of ingredients furnished by the bottler or importer contains the same information as would be required to appear on the label under the basic rules. The mailed list may, however, include all the possible additives used in the production of that product because producers may be unable to easily associate each request for information to a particular batch of the product. A shot-gun listing of additives is not allowed on the list of ingredients on the label.

By providing this exception from listing ingredients on the label, consumers will be able to "vote" with their purchasing dollar as to how much information they want on a label, and industry members will have the maximum flexibility to provide ingredient information at minimum cost. At the same time people who have the need or desire to avoid various ingredients will have the capability to do so, thus meeting the objective of this regulatory proposal. The department will carefully monitor the success of this approach after it is implemented to see what changes if any, are required.

V. FD&C Yellow No. 5

The Food and Drug Administration (FDA) published a final rule entitled "FD&C Yellow No. 5; Labeling in Food and Drugs for Human Use", (44 FR 37212, June 26, 1979) which established mandatory label disclosure of FD&C Yellow No. 5 (to be listed as such) when used in products for human use. FDA proposed the effective date of July 1, 1981, for such mandatory disclosure.

One consumer group thought that all artificial colorings should be identified by their "FD&C" name, such as FD&C Yellow No. 5. The BDM study also discussed health problems associated with FD&C Yellow No. 5.

Since FD&C Yellow No. 5 is used as a coloring material in alcoholic beverages, the Department has decided that such mandatory label disclosure is also required.

This disclosure is required on the label of all alcoholic beverage products in which the coloring material is used, either in the ingredient list, or when there is no list, elsewhere on the label. It must be stated as, "contains FD&C Yellow No. 5," or substantially in a similar form. Other statements, such as "artificially colored," and "certified color added" are not acceptable for declaring the presence of FD&C Yellow No. 5. It must also be stated in the ingredient lists voluntarily furnished by bottlers and importers.

The Department believes this requirement is necessary in light of the ever-increasing medical evidence of allergic type reactions to FD&C Yellow No. 5. This medical evidence was commented upon during the comment period and was also brought out in the Regulatory Analysis conducted by BDM Corporation as a health issue. However, FD&C Yellow No. 5 will remain on FDA's Generally Recognized As Safe (GRAS) list. At present, the requirement to state this coloring material by name applies only to FD&C Yellow No. 5. Additional disclosure of any specific ingredient will be required where FDA requires such disclosure unless the Department determines that this is not warranted for alcoholic beverages.

Although FDA established July 1, 1981, as the mandatory compliance date in their final rule, the Department has extended its mandatory compliance date for the alcoholic beverage industry until January 1, 1983, to allow an approximately equivalent time for alcoholic beverages that FDA afforded to other products and to be commensurate with other mandatory labeling changes effective the same date, and in recognition of the fact that this substance has not been removed from the GRAS list.

VI. Yeast

Notice No. 314 requested comment as to whether yeast should be considered as an essential component or an additive. For the purpose of writing Notice No. 314 yeast was considered as an additive until the question was resolved.

One wine industry member's comment stated that yeast should be considered neither as an essential component *nor* an additive since wild yeast is found naturally *on* grapes. The member further stated that most producers treat this wild yeast with sulfur dioxide, destroying it, and then add a pure strain of similar yeast for the fermentation process.

One beer industry member's comment stated that yeast is essential to fermentation but is completely removed after the fermentation process and, therefore, listing yeast is inaccurate.

One liquor industry member's comment stated it would be misleading to the consumer to require labeling of yeast as an ingredient when this item is not present in the final product. It is most appropriately viewed as a processing aid or incidental additive.

Historically, the general Government regulation policy regarding labeling of foods and beverages has been that yeast is unique to the process of production and should be listed on a label whenever used.

As stated in Notice No. 314, a key factor in ascertaining whether a substance is an essential ingredient is a determination of whether the substance is fundamental to the production of alcoholic beverages. The Department concludes that yeast is a fundamental ingredient and is an integral part of the production process of wine, distilled spirits, and beer. Therefore, the yeast added is essential to fermentation and should be considered as an essential component in the production of alcoholic beverages. Also, no arguments on this issue were presented which would justify treating the labeling of alcoholic beverages any differently than food products.

VII. Water

Notice No. 314 proposed the requirement to list water as an essential component due to its unique property of being fundamental to the production of alcoholic beverages. Some comments received opposed defining water as an essential component.

One wine industry member's comment stated that in actual practice in California, water is used for the rinsing of machinery during crushing. The commenter concluded that water is not fundamental to the production of wine, and therefore, water should be considered an incidental additive.

One beer industry member's comment stated that water is essential to the brewing process but the term "brewed" connotes the use of water and obviates the need for a redundant statement of its use. It was further stated that to suggest

water is an ingredient could be misleading and may imply dilution of the product.

The Department recognizes that water holds a unique position in the production of any alcoholic beverage and concludes that water used in the normal production of alcoholic beverages to facilitate brewing, distilling, or fermenting is essential to the finished product. However, water need not be listed if it is used in insignificant amounts such as for rinsing or washing machinery (crushers, etc.) or facilitating processing aids.

VIII. Incidental Additives/Adjuncts

Notice No. 314 raised the issue of whether there should be a universal standard for determining when an additive/adjunct is too small in amount to be significant, and thus considered incidental.

One industry member's comment stated that "rules of reason" should be used and no arbitrary standards should be established. Various industry comments identified or attempted to justify why a particular additive should not be required to be labeled, however, no comments offered a method to establish universal cut-off standards.

The Department concludes that a list of arbitrary cut-off points is not in the best interest of either consumers or industry. The establishment of cut-off points could be interpreted as the Department's endorsement of a "safe" level remaining in the finished product.

Food and beverage regulations have long recognized that there are ingredients used in insignificant amounts which should be exempt from labeling requirements. They are considered as incidental. The basis for determining whether an ingredient is subject to or exempt from labeling is generally in line with "rules of reason," or the intended function of the ingredient rather than a cut-off point for measuring the presence of residual material.

Under these final regulations three areas are provided under which an ingredient can be considered as incidental.

1. Processing aids that are added to an alcoholic beverage for mechanical effect only and subsequently removed or reduced to a level too small to be significant may be considered incidental. This would include, but not be limited to inert filter aids, most clarifying agents, and fining agents.

2. Processing aids which are added to react chemically or biologically within the product only to remove other substances (as by forming an insoluble compound), and where both the original substances and all the reaction properties are removed or reduced to a level too small to be significant, and have no further technical or functional effect on the finished product, may also be considered incidental.

3. Finally, a processing aid which is added to adjust the natural deficiencies of a constituent part of an essential component may be considered as incidental if the amount added is limited so that the total does not exceed the total quantity normally found in the constituent of that essential component. For example, if a producer adds a sugar or acid of the same type as is normally found in the grape type so that the total amount of the sugar or acid is no greater than that normally found in the grape type it need not be listed. However, if a producer adds a different type of sugar or acid whose make-up is different than that which is normally found in the grape type, the sugar or acid must be listed. If at any time the producer adds a quantity of sugar or acid which is greater than that found normally in the grape type it must be listed.

The provision for adjusting natural deficiencies was slightly modified by deleting "before or during fermentation" to allow flexibility in production. The Department agrees with the wine industry member's comment that this distinction is artificial since acids added after fermentation must be listed, but the same acid added before or during fermentation would not.

The Department, in its Notice No. 314 also proposed that, "a processing aid used in an intermediate product, if it has no technical or functional effect on the finished product (such as sulfur dioxide used to preserve apple juice, which, when the apple juice is added to finish the wine, the sulfur dioxide is not present in the finished wine in sufficient quantity to preserve it)," would be considered as incidental. The Department has reconsidered its position, in an effort to provide consistency in our regulations and meaningful information to the consumer, and will require the disclosure of additives/adjuncts used in intermediate products as would be required under these regulations as an additive/adjunct.

IX. Certification of Imported Products

Notice No. 314 proposed that an official of the exporting country and an official of each foreign country where processing would occur certify to the accuracy of the ingredient lists of the imported alcoholic beverages, as a way of assuring consumers would receive reliable ingredient information on those imported products. The Department formulated this procedure in a manner intended to establish equal responsibilities for domestic and foreign producers in providing consumers reliable information. The Department in the 1979 notice requested specific comments to assist in identifying and evaluating alternative procedures that would improve on the procedure proposed.

Numerous comments were submitted on the certification subject, but none presented suggestions for alternate procedures. The only argument advanced was that the proposed procedure was impractical for foreign producers because it was too harsh (the claim of importers) and unfair for domestic producers because it was too lenient (the claim of the domestic industry).

In the absence of any suggestion for a viable alternative that would insure equal treatment to domestic and foreign producers, the Department is implementing the certification procedures generally as proposed, except, the Department deleted the provisions for a certified list of ingredients from each foreign country where blending or treating occurred. The responsibility for certifying a complete list of ingredients will rest with an authorized government official of the foreign country in which the alcoholic beverage is bottled or packed prior to entry into U.S. Customs custody, thereby reducing the burden of certification on all but the country in which the product is bottled or packed. In addition, a U.S. bottler or producer who subsequently bottles, processes, or packages any imported beverage must provide a certified list of the ingredients in the imported product as part of any application for a certificate of label approval. The authorized government official of the foreign country in which the alcoholic beverage was produced or where additional processing last occurred prior to entry into U.S. Customs custody will sign this certified list of ingredients.

The Department made other modifications to the certification provisions as a result of changes to other sections of the proposal. These changes provide additional latitude that the Department considers comensurate with requirements for domestic producers. At the option of the foreign producer or domestic importer, imported alcoholic beverages must be labeled with an ingredient list or an option statement and address in the United States where consumers may obtain ingredient information. Further, if the ingredient list is not shown on the bottle

or container, the option statement must be on either the brand label or on a strip label on the front of the bottle or container. The use of a strip label minimizes the number of labels required by a foreign producer who makes worldwide distribution, thereby saving considerable expense.

In addition, Notice No. 314 proposed that a certified ingredient list accompany applications for certificates of label approval covering malt beverages produced from imported nonalcoholic wort or wort concentrate. The Department is withdrawing this proposal.

X. Order of Predominance

Notice No. 314 proposed that ingredients were not required to be listed in order of predominance. Comments received from consumers and consumer groups objected to this exemption on the basis that it denied the consumer "an approximate idea as to the relative amounts of ingredients" in the product and may be misleading. These same comments stated that if the order of predominance is not shown, this fact should be so stated. The Department concurs with the latter comment that if the ingredients are not listed in order of predominance, a statement "Not Necessarily In Order of Predominance" shall accompany the listing of ingredients. This additional requirement has been included in the final regulations.

XI. Type Style and Size

Notice No. 314 discussed type size, placement of an ingredient list on the label, authorized or required functional statements for additives, and the style of script or print. With the exception of the style of script or print, the other areas have been slightly modified. The notice proposed an effective date of January 1, 1980, for conversion to metric type sizes in Part 5 (Distilled Spirits) and Part 7 (Malt Beverages). However, the Department has extended the mandatory compliance date until January 1, 1983, to be commensurate with other mandatory labeling changes effective the same date.

In addition to conversion from gothic to metric type sizes, Notice No. 314 proposed the ingredient list be in type or printing not smaller than 2 millimeters except the proposal allowed 1 millimeter on certain small container sizes. The Department has reviewed its position and has concluded that the 2 millimeter type size requirement for larger containers and 1 millimeter type size requirement for small containers would dominate an abnormally large area of label space. This would likely contribute to forcing some producers to use a back label for disclosure of ingredients, thus increasing the cost to producers and ultimately, consumers. Therefore, the type or printing for ingredient lists shall not be smaller than 1 millimeter, except the type or printing on certain small bottles shall not be smaller than one-half millimeter.

The placement of the ingredient list on the bottle or container is expanded to include the cap of the bottle or top of the container, provided other mandatory information is not obscured.

Notice No. 314 proposed that preservatives contain a mandatory functional statement, "to preserve" or "as a preservative." This requirement for a mandatory functional statement is changed to be optional.

XII. Derivatives

Notice No. 314 proposed that derivatives be listed separately from their essential components.

One comment from the distilled spirits industry stated that spirits made from corn or a derivative (corn grits or corn meal) are identical and breaking them out separately may mislead the consumer. The same argument was also posed for labeling grapes or grape concentrate.

In the production of any alcoholic beverage, essential components, other than water, are subjected to some initial processing which changes them from their primary agricultural state. For example, corn is ground into corn grits or corn meal and grapes are crushed into grape juice before brewing or fermentation begins.

In response to industry and consumer comments the Department concludes that derivatives of essential components need not be labeled as such unless some other processing affects the composition of the essential component.

XIII. Compounded Essential Components

A comment from the brewing industry stated a 1975 survey conducted by the United States Brewers Association, Inc. demonstrated that listing corn syrup as an ingredient could be misleading to consumers. A significant number of those surveyed thought malt beverages produced from corn syrup would be sweeter than other brands.

While the Department concluded that the distinction between some essential components and their derivatives is unwarranted, that distinction does not hold for those essential components subjected to some other processing affecting their composition.

Corn syrup has long had a standard of identity that allows the addition of ingredients other than corn (preservatives and/or other additives) which distinguishes this product from other derivatives.

The Department, therefore, concludes that essential components which have been compounded by addition of other ingredients should be labeled by listing the commonly recognized or usual name such as corn syrup, or each individual ingredient in that compounded essential component. Producers will then be able to clearly inform consumers of ingredients used in a product by furnishing the well-known name of the ingredient or a truthful and accurate listing of its composition.

XIV. Miscellaneous Amendments and Considerations

If necessary, the Department will consider proposing amendments to other regulations affected by this final rule.

The Department will also give careful and expeditious consideration to all petitions pertaining to matters and changes affected by this Treasury decision.

Transition Period

Notice No. 314 proposed a 3 year transition period. However, due to the extension of the comment period (120 days), the time required to complete the Regulatory Analysis, and the fact that the wine industry is required to make label changes effectively January 1, 1983, the transition period will be slightly less than originally proposed, the Department believes this length of time for the transition period is sufficient for industry to make changes necessary to conform to the new regulations and to make certain that compliance is monitored in the simplest and least burdensome way possible.

Public Inspection and Disclosure

Copies of the final rule, of the Regulatory Analysis, and of all written comments will be available for public inspection under authority of 27 CFR 71.41(b) during normal business hours at the following location: Public Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC 20226.

If a copy of the Regulatory Analysis and the Opinion Research Corporation Survey (Poll) is desired, it can be obtained, for a fee, from: The Office of Disclosure, Bureau of Alcohol, Tobacco and Firearms, Room 5207, 12th and Pennsylvania Avenue NW., Washington, DC 20226.

Drafting Information

The principal authors of these regulations are Norman Blake and Roger

Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices in the Treasury Department substantially participated in developing the substance and style of these regulations.

Authority

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981 (as amended; 27 U.S.C. 205)), 27 CFR Parts 4, 5, and 7 are amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The table of sections in 27 CFR Part 4, Subpart D is amended to include an additional section as follows:

Subpart D—Labeling Requirements for Wine

Sec.

* * * * *

4.37a List of ingredients.

* * * * *

Par. 2. Section 4.10 is amended to add, in alphabetical order, the terms "Additive," "Artificial flavor or artificial flavoring," "Essential component," "Incidental additive," "Ingredient," and "Natural flavor or natural flavoring." The added definitions read as follows:

§ 4.10 Meaning of terms.

* * * * *

Additive. For purposes of this part, an additive is any substance, except essential components and incidental additives, added by any means during the production, storage, or treatment of wine and remains in the finished product. For example, substances added to clarify, filter, stabilize, preserve, flavor, or color wine that remain in the finished product are considered additives. Agriculturally identified substances (grapes or yeast for example) which are essential components in the production of the basic wine are not considered additives.

* * * * *

Artificial flavor or artificial flavoring. Artificial flavors or artificial flavoring materials are any flavoring materials not included in the definition of "Natural flavors" in this part.

* * * * *

Essential component. For purposes of this part, an essential component is any agriculturally identified substance (grapes, peaches, blackberries, or yeast for example), used in the production of a basic wine which is fundamental to the production of the wine. Water is specifically included as an essential component.

* * * * *

Incidental additive. (1) A processing aid that is added to a wine for its mechanical effect only (such as an inert filter aid or certain clarifying agents) and is then removed or reduced to a level too small to be significant; or (2) a processing aid which reacts chemically or biologically within the product only to remove other substances (as by forming an insoluble compound) and both the original substance and all of its reaction products are then removed, or reduced to a level too small to be significant, and have no further technical or functional effect on the finished product; or (3) a processing aid which is added to adjust the natural deficiencies of a constituent part of an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component. Any substance which causes, catalyzes, or otherwise participates in a chemical or biological reaction within the product, except as noted in items (2) and (3) of this paragraph, is specifically excluded from this definition of an incidental additive and is considered as an additive.

Ingredient. For purposes of this part, an ingredient is any essential component or additive, except an incidental additive, used in the production of a finished wine.

* * * * *

Natural flavor or natural flavoring. The term "natural flavor" or "natural flavoring" means the essential oils, oleoresin, essence or extractive, hydrolysate, distillate, or any product of roasting, maceration, heating or enzymolysis, which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products, or fermentation products thereof, whose significant function is flavoring.

* * * * *

Par. 3. Section 4.32 is amended by changing the reference in (a)(4) from "domestic" to "American"; by adding a new paragraph (c); by relettering existing paragraph (c) as (d) and making editorial changes; and by changing the reference in paragraph (a) to (c) and (d). As amended, § 4.32 (a), (a)(4), (c) and (d) read as follows:

§ 4.32 Mandatory label information.

(a) Except as otherwise provided in paragraphs (c) and (d) of this section, there shall be stated on the brand label:

* * * * *

(4) On blends consisting of foreign and American wines, if any reference to the presence of foreign wine is made, the exact percentage by volume of foreign wine.

* * * * *

(c) Beginning January 1, 1983, a list of ingredients or the option statement and address in the United States where the ingredient information is available shall appear as required by § 4.37a.

(d) The name and address of the importer (when required to be shown) or the American bottler or packer need not appear on the brand label under one of the following conditions:

(1) In the case of imported wine, it appears on any other label affixed to the container.

(2) In the case of wine domestically bottled, the name and address of the person for whom bottled or packed appears on the brand label, *and* the name and address of the bottler, or packer appears on any other label affixed to the container.

Par. 4. A new section, § 4.37a, has been added, in numerical sequence, to read as follows:

§ 4.37a. List of ingredients. (Not mandatory before January 1, 1983.)

(a) *Ingredients*—(1) *Label disclosure.* There shall be shown on the brand label, back label, on a separate strip label, or on the cap of the bottle or the top of the container a list of all ingredients used in the production or treatment of wine. If applicable, the list of ingredients must contain the statement "Not Necessarily In Order Of Predominance."

(2) *Exception.* The list of ingredients required under paragraph (a)(1) of this section need not appear on the label where the following conditions are met.

(i) The producer, bottler, packer, or importer timely provides a list of ingredients upon request. The list must comply with the requirements for label disclosures, except that the list may include all additives which are sometimes used in the product. Such additives shall be identified by words indicating that they may or may not be present such as "or," "and/or," "contains one or more of the following." Where the American producer, bottler, or packer takes this exception, a list of ingredients to be furnished to consumers shall be submitted as an attachment to the Form 1649 or Form 1649 Supplemental.

(ii) A statement must appear in the following language, on a brand label or a separate strip label on the front of the container: "For Information About Ingredients In This Product, Write: (*insert name of addressee and mailing address in the United States with zip code where information is available, unless this address appears elsewhere on the container*)."

(iii) The label contains no statements which purport to constitute a list of ingredients, such as "made from the finest grape wine with strawberry flavor and other natural flavors added", unless such a statement is otherwise required by § 4.34(a), as a statement of composition. Where the statement of composition is required, the language described in paragraph (a)(ii) of this section, must be in direct conjunction with the composition statement.

(b) *Form of list.* When used on a label, the list shall be separate and distinct from all other matter shown on the label and shall take substantially the following form: "Ingredients," followed by a full listing of essential components (as defined in § 4.10 of this part) and a specific list of the additives used in the product. Essential components not present in the product may be listed if they are sometimes used to produce the wine. Such essential components shall be identified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." However, an exact listing of essential components may appear. No additives shall be listed unless actually present. Ingredients which are duplicated in the finished wine product need be listed only once.

(c) *Prohibited statements in the ingredient list.* While permitted elsewhere on the label, statements of the following types may not appear in the ingredient list: (1) statements of substances formed within the product, such as substances formed by storage in wood; (2) statements denoting quality, such as "finest" grapes or "best" yeast; (3) statements of grape (or other fruit) varieties used to make a wine, and (4) negative statements, such as "contains no preservatives."

(d) *Additional statements.* Specific function statements for additives included in the ingredient list may be used if:

(1) The statement is truthful;

(2) The statement does not create a misleading impression; and

(3) The statement is made in substantially the following form: "*(additive name),* to clarify" or "to preserve."

(e) *Nomenclature.* When possible, ingredients shall be listed by common name (a name likely to be recognized by the average consumer as referring to a distinct substance) such as water or yeast. Essential components shall be broken down into agriculturally identified substances such as "grapes," "cherries," "oranges." Compounded essential components, such as fruit concentrates that have had other ingredients added, shall be listed by their common or usual name or, in lieu of the common or usual name, by individual ingredients. Unless they can be identified by common names, additives will be broken down into their component compounds. As an example, a defoaming agent which contains sorbic acid and carboxymethylcellulose will be listed by the names of the two elements. Chemical nomenclature will be based on that used by the Food and Drug Administration. In all cases, additives and incidental additives which are not authorized for use in Parts 70–82 or Parts 170–189, of 21 CFR, or are not Generally Recognized As Safe (GRAS), may not be used in wine.

(f) *Coloring materials.* (1) Mandatory label disclosure is required for FD&C Yellow No. 5, even if other ingredients are not listed.

(2) Other coloring materials. The words "artifically colored" shall be stated on the label of any wine containing synthetic or natural materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that:

(i) Coloring material may be denoted by FD&C color and number; or

(ii) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color; or

(iii) If all of the coloring material used is from lots certified by the Food and Drug Administration for use in foods, the term "certified color" may be used in lieu of the term "artificial color"; or

(iv) If no coloring material other than caramel has been added there may be stated in lieu of the words "artifically colored," the words "colored with caramel."

(g) *Flavoring materials.* Natural and/or artificial flavors used in wine shall be identified in the ingredient list in accordance with the labeling of flavors under FDA regulations. Examples are "natural and artificial," "artificial and natural," "natural," or "artificial." In the case of natural flavors, a truthful and adequate statement of the source of the flavor may be made in lieu of the words "natural flavor(s)."

(h) *Distilled spirits.* Distilled spirits used in wine production shall be identified by class and type in accordance with the standards of identity contained in 27 CFR Part 5, except wine spirits as defined in 27 CFR Part 240. Distilled spirits not covered by a standard of identity shall be identified by the term "spirits," preceded by the name of the commodity from which distilled.

(i) *Wine domestically bottled or packed prior to January 1, 1983.* This section shall not apply to wine domestically bottled or packed prior to January 1, 1983.

(j) *Imported wine removed from Customs custody on or after January 1, 1983.* This section shall not apply to wine bottled or packed outside the United States prior to January 1, 1983, and removed from Customs custody on or after January 1, 1983, if the shipment is accompained by the statement required by § 4.40(d)(2).

Par. 5. Section 4.38 is amended by adding a provision for type size requirement for ingredient lists to paragraph (b). As amended, § 4.38(b) reads as follows:

§ 4.38 General requirements.

(a) *Legibility.* * * *

(b) *Size of type.*

(1) Containers of more than 187 milliliters.

(i) All mandatory information required on labels by this part, except the alcoholic content statement and the ingredient list, shall be in script, type, or printing not smaller than 2 millimeters; except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(ii) (Not mandatory before January 1, 1983). The ingredient list shall be legible and conspicuous and in lettering not smaller than 1 millimeter.

(2) Containers of 187 milliliters or less.

(i) All mandatory information required on labels by this part, except the alcoholic content statement and the ingredient list, shall not be smaller than 1 millimeter; except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size sustantially more conspicuous than that of the descriptive or explanatory information.

(ii) (Not mandatory before January 1, 1983). The ingredient list shall be legible and conspicuous and in lettering not smaller than one-half millimeter.

(3) Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 2 millimeters nor smaller than 1 millimeter on labels of containers having a capacity of 5 liters or less and shall not be set off with a border or otherwise accentuated.

* * * * *

Par. 6. Section 4.39 is amended to add reference to a list of ingredients in (a)(7). As amended § 4.39(a)(7) reads as follows:

§ 4.39 Prohibited practices.

(a) *Statement on labels.* * * *

(7) Any statement, design, device, or representation (other than a statement of alcoholic content in conformity with § 4.36), which tends to create the impression that a wine is "unfortified" or has been "fortified," or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as the designation of a product not defined in these regulations, may include a reference to the type of distilled spirits contained therein. This paragraph shall not apply to the list of ingredients required by § 4.37a.

* * * * *

Par. 7. Section 4.40 is revised to read as follows:

§ 4.40 Label approval and release.

(a) *Certificate of label approval.* No imported beverage wine in containers shall be released from U.S. Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an approved certificate of label approval, Form 1649.

(b) *List of ingredients.* Each application for a certificate of label approval covering imported wine in containers bottled or packed after December 31, 1982, shall be accompanied by a list of ingredients, certified as accurate by an authorized government official of the foreign country in which the wine was bottled or packed prior to entry into U.S. Customs custody, and such list shall contain the information required by § 4.37a.

(c) *Approval of ingredients lists.* Where the only change to the mandatory information on an approved label is the addition of, or a change in the list of ingredients or the option statement and the address in the United States where the ingredient information is available as required by § 4.37a, a new Form 1649 shall not be filed. In lieu thereof, this information shall be furnished by filing a Form 1649 Supplemental in accordance with the instructions on the form. If the identical ingredient list, or the option statement and the address in the United States where ingredient information is available, is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

(d) *Release.* If the original or photostatic copy of Form 1649 or, if applicable, Form 1649 Supplemental bears the signature of the Director, then the brand or lot of imported wine bearing labels identical with those shown thereon may be released from U.S. Customs custody under one of the following conditions:

(1) Wine bottled or packed and removed from U.S. Customs custody prior to January 1, 1983.

(2) Wine bottled or packed shall not be removed from U.S. Customs custody on or after January 1, 1983, unless a valid Form 1649 is on file; and

(i) The shipment is accompanied by a certificate signed by an authorized government official of the foreign country where such wine was bottled or packed certifying that such wine was bottled or packed prior to January 1, 1983; or

(ii) The shipment is being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before December 31, 1982.

(3) Wine bottled or packed prior to January 1, 1983, may be removed from U.S. Customs custody on or after January 1, 1983, without the certificate required in paragraph (d)(2) of this section if a valid Form 1649 or Form 1649 Supplemental, which includes a copy of the certified list of ingredients, is on file.

(4) Wine bottled or packed on or after January 1, 1983, shall not be released from U.S. Customs custody unless a valid Form 1649 or Form 1649 Supplemental, which includes a copy of the certified list of ingredients, is on file.

(e) *Relabeling.* Imported wine in U.S. Customs custody which is not labeled in conformity with certificates of label approval (including Form 1649 Supplemental on or after January 1, 1983) issued by the Director must be relabeled prior to release under the supervision and direction of Customs officers of the port at which the wine is located.

Par. 8. Section 4.50 is revised by adding a sentence to the end of paragraph (a), by relettering paragraph (b) as (d), by adding two new paragraphs (b) and (c), by making editorial changes in paragraphs (a) and (d), and by deleting the footnote. As revised, § 4.50 reads as follows:

§ 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in U.S. Customs custody, or remove such wine from the plant where bottled or packed, unless application is made to the Director and an approved certificate of label approval, Form 1649, is issued. Each application for a certificate of label approval covering labels for wine which is imported in bulk for subsequent bottling or packaging in the United States, shall be accompanied by a list of ingredients certified as accurate by an authorized government official of the foreign country where such wine was last processed prior to entry into U.S. Customs custody. The certified list of ingredients shall contain the information required by § 4.37(a).

(b) Where the American bottler or packer takes the exception as provided in § 4.37a(a)(2), a list of ingredients to be included in letters to consumers shall be submitted as an attachment to the Form 1649 or Form 1649 Supplemental.

(c) Where the only change to the mandatory information on an approved label is the addition of, or a change in the list of ingredients or the option statement and the address in the United States where the ingredient information is available as required by § 4.37a, a new Form 1649 shall not be filed. In lieu thereof, this information shall be furnished by filing a Form 1649 Supplemental in accordance with the instructions on the form. If the identical ingredient list, or the option statement and the address in the United States where the ingredient information is available, is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

(d) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application the bottler or packer shows to the satisfaction of the Director that the wine to be bottled or packed is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. A "Certificate of Exemption from Label Approval under the Federal Alcohol Administration Act" (Form 1650) shall be issued by the Director upon application upon the form designated "Application for Certificate of Exemption from Label Approval under the Federal Alcohol Administration Act" (Form 1648), properly filled out and certified to by the applicant.

Par. 9. Section 4.64 is amended by adding a provision for a list of ingredients to paragraph (a)(8). As amended, § 4.64(a)(8) reads as follows:

§ 4.64 Prohibited statements.

(a) *Restrictions.* * * *

(8) Any statement, design, device, or representation which relates to alcoholic content or which tends to create the impression that a wine is "unfortified" or has been "fortified," or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as a designation of a product not defined in these regulations, may include a reference to the type of distilled spirits employed. This paragraph shall not apply to the list of ingredients required by § 4.37a.

* * * * *

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 10. The table of sections in 27 CFR Part 5, Subpart D is amended to include an additional section as follows:

Subpart D—Labeling Requirements for Distilled Spirits

Sec.

* * * * *

§ 5.39a List of ingredients.

* * * * *

Par. 11. Section 5.11 is amended by adding in alphabetical order, new definitions of "Additive," "Essential component," "Incidental additive," "Ingredient" and "Natural flavor." The added definitions read as follows:

§ 5.11 Meaning of terms.

* * * * *

Additive. For purposes of this part, an additive is any substance, except essential components and incidental additives, added by any means during the production, storage, or treatment of distilled spirits and remains in the finished product. For example, substances added to clarify, filter, stabilize, preserve, flavor, or color distilled spirits that remain in the finished product are considered additives. Agriculturally identified substances (corn, wheat, rye, or yeast, for example) which are essential components in the production of the basic distilled spirits are not considered additives.

* * * * *

Artificial flavor or artificial flavoring. Artificial flavors or artificial flavoring materials are any flavoring materials not included in the definition of "Natural flavors" in this part.

* * * * *

Essential component. For purposes of this part, an essential component is any agriculturally identified substance (corn, wheat, rye, or yeast, for example), used in the production of a basic distilled spirits product which is fundamental to the production of the distilled spirits. Water is specifically included as an essential component.

* * * * *

Incidental additive. An incidental additive is, (1) a processing aid that is added to a distilled spirits product for its mechanical effect only (such as an inert filter aid or certain clarifying agents) and is then removed or reduced to a level too small to be significant; or (2) a processing aid which reacts chemically or biologically within the product only to remove other substances (as by forming an insoluble compound) and both the original substance and all of its reaction products are then removed, or reduced to a level too small to be significant, and have no further technical or functional effect on the finished product; or (3) a processing aid which is added to adjust the natural deficiencies of a constituent part of an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component. Any substance which causes, catalyzes, or otherwise participates in a chemical or biological reaction within the product, except as noted in items (2) and (3) of this paragraph, is specifically excluded from the definition of an incidental additive and is considered as an additive.

Ingredient. For purposes of this part, an ingredient is any essential component or additive, except an incidental additive, used in the production of a distilled spirits product.

* * * * *

Natural flavor. The term "natural flavor" or "natural flavoring," except as otherwise provided in this part, means the essential oils, oleoresin, essence or extractive, hydrolysate, distillate, or any product of roasting, maceration, heating or enzymolysis, which contains the flavoring constituents dervied from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products or fermentation products thereof, whose significant function is flavoring.

* * * * *

Par. 12. Section 5.22 is amended by adding a parenthetical explanation to the last sentence of paragraph (i). As amended, § 5.22(i) reads as follows:

§ 5.22 The standards of identity.

* * * * *

(i) *Class 9; flavored brandy, flavored gin, flavored rum, flavored vodka,* and *flavored whisky.* "Flavored brandy," "flavored gin," "flavored rum," "flavored vodka," and "flavored whisky" are brandy, gin, rum, vodka, and whisky, respectively, to which have been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 70° proof. The name of the predominant flavor shall appear as a part of the designation. If the finished product contains more than 2½ percent by volume of wine, the kinds and percentages by volume of wine must be stated as a part of the designation, except that a flavored brandy may contain an additional 12½ percent by volume of wine, without label disclosure (except in the list of ingredients required by § 5.39a(a)), if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

* * * * *

Par. 13. Section 5.32 is amended by (1) deleting paragraph (b)(4); (2) renumbering paragraphs (b)(5), (6), and (7) as (b)(4), (5) and (6); (3) relettering paragraph (c) as (d); and (4) adding a new paragraph (c). As amended, § 5.32(b)(4), (5) and (6), § 5.32(c) and (d) read as follows:

§ 5.32 Mandatory label information.

* * * * *

(b) * * *

(4) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutal spirits or gin, the name of the commodity only, in accordance with § 5.39.

(5) A statement of age or age and percentage, when required, in accordance with § 5.40.

(6) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with § 5.36.

* * * * *

(c) Beginning January 1, 1983, a list of ingredients or the option statement and address in the United States where the ingredient information is available shall appear as required by § 5.39a.

(d) In the case of a bottle which has been excepted by the Director under the provisions of § 5.48(a), the information required to appear on the "brand label," as defined, may appear elsewhere on such bottle if it can be demonstrated that the bottle cannot reasonably be so designed that the required brand label can be properly affixed.

Par. 14. Section 5.33 is amended by (1) making clarifying changes in paragraphs (a), (b), (c) and (f); (2) adding a new paragraph (b)(5) providing type size requirements for ingredients listed on the label; and (3) renumbering existing

paragraph (b)(5) as (b)(6). As amended, § 5.33 (a), (b), (c) and (f) reads as follows:

§ 5.33 Additional requirements.

(a) *Contrasting background.* Labels shall be so designed that the statements required by this subpart are readily legible under ordinary conditions, and such statements shall be on a contrasting background.

(b) *Location of statements and size of type.*

(1) Statements required by this subpart (except brand names and the ingredient list or the option statement and the address where ingredient information is available) shall appear generally parallel to the base on which the bottle rests as it is designed to be displayed or shall be otherwise equally conspicuous.

(2) Statements required by this subpart (except brand names and the ingredient list) shall be separate and apart from any other descriptive or explanatory matter.

(3) Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(4) Statements required by this subpart (except brand names and the ingredient list) shall be in script, type or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less capacity, such script, type or printing shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983).

(5) The list of ingredients shall be legible and conspicuous and in lettering not smaller than 1 millimeter (or 6-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less the script, type, or printing shall not be smaller than one-half millimeter (or 4-point gothic until January 1, 1983).

(6) When net contents are stated either in metric measure or in both metric and U.S. fluid measures, statements required by this subpart (except brand names and the ingredient list) shall be in script, type or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less capacity such script, type or printing shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983).

(c) *English language.* The requirements of this subpart shall be stated in the English language, except that the brand name need not be in English, and for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word "imitation" are also stated in the English language.

* * * * *

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by this subpart if the information does not conflict with, or in any manner qualify, statements required by this part.

* * * * *

Par. 15. Section 5.39 is amended to delete paragraph (b) in its entirety and the remaining paragraph (c) is relettered (b). Section 5.39(b) reads as follows:

§ 5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

* * * * *

(b) *Treatment with wood.* The words "colored and flavored with wood ——— (insert chips, slabs, etc., as appropriate)" shall be stated as a part of the class and type designation for whisky and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation or storage (other than through contact with the oak container).

Par. 16. A new section, § 5.39a, is added immediately following § 5.39, to read as follows:

§ 5.39a. List of ingredients. (Not mandatory before January 1, 1983.)

(a) *Ingredients*—(1) *Label disclosure.* There shall be shown on the brand label, back label, on a separate strip label, or on the cap of the bottle a list of all ingredients used in the production or treatment of distilled spirits. If applicable, the list of ingredients must contain the statement "Not Necessarily In Order Of Predominance".

(2) *Exception.* The list of ingredients required under paragraph (a)(1) of this section need not appear on the label where the following conditions are met.

(i) The producer, bottler, or importer timely provides a list of ingredients upon request. The list must comply with the requirements for label disclosure, except the list may include all additives which are sometimes used in the product. Such additives shall be identified by words indicating that they may or may not be present such as "or," "and/or," "contains one or more of the following." Where the American producer or bottler takes this exception, a list of ingredients to be furnished letters to consumers shall be submitted as an attachment to the Form 1649 or Form 1649 Supplemental.

(ii) A statement must appear in the following language, on a brand label or a separate strip label on the front of the bottle: "For Information About Ingredients In This Product, Write: (*insert name of addressee and mailing address in the United States with zip code where information is available, unless this address appears elsewhere on the bottle*)".

(iii) The label contains no statements which purport to constitute a list of ingredients, such as "made from rum with natural and artificial flavors added and caramel coloring," unless a statement is otherwise required by § 5.35(a), as a statement of composition. Where the statement of composition is required, the language described in paragraph (ii) must be in direct conjunction with the composition statement.

(b) *Form of list.* When used on a label, the list shall be separate and distinct from all other matter shown on the label and shall take substantially the following form: "Ingredients," followed by a full listing of essential components (as defined in § 5.11 of this part) and a specific list of the additives used in the product. Essential components not present in the product may be listed if they are sometimes used to produce the wine. Such essential components shall be identified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." However, an exact listing of essential components may appear. No additives shall be listed unless actually present. Ingredients which are duplicated in the finished distilled spirits product need be listed only once.

(c) *Prohibited statements in the ingredient list.* While permitted elsewhere on the label, statements of the following types may not appear in the ingredient list: (1) statements of substances formed within the product, such as lactones formed by storage in wood; (2) statements denoting quality, such as "finest" corn or "best" wheat; and (3) negative statements, such as "contains no preservatives."

(d) *Additional statements.* Specific function statements for additives included in the ingredient list may be used at the option of the producer if:

(1) The statement is truthful;

(2) The statement does not create a misleading impression; and

(3) The statement is made in substantially the following form: "(*additive name*), to clarify" or "to preserve."

(e) *Nomenclature.* When possible, ingredients shall be listed by common name (a name likely to be recognized by the average consumer as referring to a distinct substance) such as water or yeast. Essential components shall be broken down into agriculturally

identified substances, such as "corn," "wheat" or "yeast." Compounded essential components, such as corn syrup, that have had other ingredients added shall be listed by their common or usual name or, in lieu of the common or usual name, by individual ingredients. Unless they can be identified by common names, additives will be broken down into their component compounds. As an example, a cloud emulsion which contains d-limonene, citric acid, and neobee will be listed by the names of the three elements. Chemical nomenclature will be based on that used by the Food and Drug Administration. In all cases, additives and incidental additives which are not authorized for use in Parts 70–82 or Parts 170–189, of 21 CFR, or are not Generally Recognized As Safe (GRAS) may not be used in distilled spirits products.

(f) *Coloring materials.* (1) Mandatory label disclosure is required for FD&C Yellow No. 5, even if other ingredients are not listed.

(2) Other coloring materials. The words "artificially colored" shall be stated on the label of any distilled spirits containing synthetic or natural materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that:

(i) Coloring material may be denoted by FD&C color and number; or

(ii) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color; or

(iii) If all of the coloring material used is from lots certified by the Food and Drug Administration for use in foods, the term "certified color" may be used in lieu of the term "artificial color"; or

(iv) If no coloring material other than caramel has been added there may be stated in lieu of the words "artificially colored," the words "colored with caramel."

(g) *Flavoring materials.* Natural and/or artificial flavors used in distilled spirits shall be identified in the ingredient list in accordance with the labeling of flavors under FDA regulations. Examples are "natural and artificial," "artificial and natural," "natural," or "artificial." In the case of natural flavors, a truthful and adequate statement of the source of the flavor may be made in lieu of the words "natural flavor(s)."

(h) *Approval of ingredient lists.* Where the only change to the mandatory information on an approved label is the addition of, or a change in the list of ingredients or the option statement and the address in the United States where the ingredient information is available as required by this section, a new Form 1649 shall not be filed. In lieu thereof, this information shall be furnished by filing a Form 1649 Supplemental in accordance with the instructions on the form. If an identical ingredient list, or the option statement and the address in the United States where the ingredient information is available, is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all the approved labels.

(i) *Distilled spirits domestically bottled prior to January 1, 1983.* This section shall not apply to distilled spirits domestically bottled prior to January 1, 1983.

(j) *Distilled spirits bottled outside the United States prior to January 1, 1983.* This section shall not apply to distilled spirits bottled outside the United States prior to January 1, 1983, and removed from U.S. Customs custody on or after January 1, 1983, if the shipment is accompanied by the statement required by § 5.51(c).

Par. 17. Section 5.51 is completely revised to read as follows:

§ 5.51 Label approval and release.

(a) *Certificate of label approval.* Bottled distilled spirits shall not be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an approved certificate of label approval, Form 1649.

(b) *Lists of ingredients.* Each application for a certificate of label approval covering imported distilled spirits bottled after December 31, 1982, shall be accompanied by a list of ingredients, certified as accurate by an authorized government official of the appropriate foreign country, and such list shall contain the information required by § 5.39a.

(c) *Release.* If the original or photostatic copy of Form 1649 or Form 1649 Supplemental bears the signature of the Director, then the brand or lot of imported distilled spirits bearing labels identical with those shown thereon may be released from U.S. Customs custody under one of the following conditions:

(1) Distilled spirits bottled and removed from U.S. Customs custody prior to January 1, 1983, if an approved Form 1649 is on file.

(2) Distilled spirits bottled shall not be removed from U.S. Customs custody on or after January 1, 1983, unless a valid Form 1649 is on file; and

(i) The shipment is accompanied by a certificate signed by an authorized government official of the foreign country where such distilled spirits was bottled certifying that such distilled spirits was bottled prior to January 1, 1983; or

(ii) The shipment is being withdraw from a Customs bonded warehouse or foreign trade zone into which entered on or before December 31, 1982.

(3) Distilled spirits bottled prior to January 1, 1983, may be removed from U.S. Customs custody on or after January 1, 1983, without the certificate required in paragraph (c)(2) of this section if a valid Form 1649 or Form 1649 Supplemental, which includes a copy of the certified list of ingredients, is on file.

(4) Distilled spirits bottled on or after January 1, 1983, shall not be released from U.S. Customs custody unless a valid Form 1649 or Form 1649 Supplemental, which includes a copy of the certified list of ingredients, is on file.

(d) *Relabeling.* Imported distilled spirits in U.S. Customs custody which are not labeled in conformity with certificates of label approval issued by the Director (including Form 1649 Supplemental) must be relabeled prior to release under the supervision of the Customs officers of the port at which the spirits are located.

(e) *Statements of process.* Forms 1649 covering labels for gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process.

(f) *Approval of ingredient lists.* Where the only change to the mandatory information on an approved label is the addition of, or a change in the list of ingredients or the option statement and the address in the United States where the ingredient information is available as required by § 5.39a, a new Form 1649 shall not be filed. In lieu thereof, this information shall be furnished by filing a Form 1649 Supplemental in accordance with the instructions on the form. If the identical ingredient list, or the option statement and the address in the United States where the ingredient information is available, is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

Par. 18. Section 5.55 is revised by (1) adding a sentence at the end of paragraph (a); (2) adding two new paragraphs (b) and (c); and (3) redesignating existing paragraphs (b) and (c) as (d) and (e). As revised § 5.55 reads as follows:

§ 5.55 Certificates of label approval.

(a) *Requirement.* Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (d) of this section, unless the proprietor possesses a certificate of label approval, Form 1649, covering the labels on the bottle, issued by the Director pursuant to application on such form. Applications for certificates of approval covering labels for imported gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process. Each application for a certificate of label approval covering labels for distilled spirits which are imported in bulk for subsequent bottling in the United States, shall be accompanied by a list of ingredients certified as accurate by an authorized government official of the foreign country where such distilled spirits were last processed prior to entry into U.S. Customs custody. The certified list of ingredients shall contain the information required by § 5.39a.

(b) *List of ingredients.* Where the American bottler takes the exception as provided in § 5.39a(a)(2), a list of ingredients to be included in letters to consumers shall be submitted in an attachment to the Form 1649 or Form 1649 Supplemental.

(c) *Approval of ingredient lists.* Where the only change to the mandatory information on an approved label is the addition of, or a change in the list of ingredients or the option statement and the address in the United States where the ingredient information is available as required by § 5.39a, a new Form 1649 shall not be filed. In lieu thereof, this information shall be furnished by filing a Form 1649 Supplemental in accordance with the instructions on the form. If the identical ingredient list, or the option statement and the address in the United States where ingredient information is available, is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

(d) *Exemption.* Any bottler of distilled spirits shall be exempt from the requirements of paragraphs (a), (b), and (c) of this section and § 5.56 if the bottler possesses a certificate of exemption from label approval, Form 1650, issued by the Director pursuant to application on Form 1648 showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce.

(e) *Miscellaneous.* Photoprints or other reproductions of certificates of label approval, or certificates of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the Director) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to an authorized officer of the U.S. Government.

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 19. The table of sections in 27 CFR Part 7, Subpart C is amended to include one additional section as follows:

Subpart C—Labeling Requirements for Malt Beverages

Sec.

* * * * *

7.27a List of ingredients.

* * * * *

Par. 20. Section 7.10 is amended to add in alphabetical order the terms "Additive (Adjunct)," "Essential component," "Incidental Additive (Incidental Adjunct)," "Ingredient," "Natural flavor or natural flavoring." The added definitions read as follows:

§ 7.10 Meaning of terms.

* * * * *

Additive (Adjunct). For purposes of this part, an additive (adjunct) is any substance, except essential components and incidental additives (incidental adjuncts), added by any means during the production, storage, or treatment of malt beverages and remains in the finished product. For example, substances added to clarify, filter, stabilize, preserve, flavor, or color a malt beverage that remains in the finished product are considered additives. Agriculturally identified substances (hops or yeast for example) which are essential components in the production of the basic malt beverage are not considered additives (adjuncts).

* * * * *

Artificial flavor or artificial flavoring. Artificial flavors or artificial flavoring materials are any flavoring materials not included in the definition of "Natural flavors" in this part.

* * * * *

Essential component. For purposes of this part, an essential component is any agriculturally identified substance (barley, hops, rice, or yeast for example), used in the production of a basic malt beverage which is fundamental to the production of the malt beverage. Water is specifically included as an essential component.

* * * * *

Incidental additive (Incidental adjunct). An incidental additive (incidental adjunct) is, (1) a processing aid that is added to a malt beverage for its mechanical effect only (such as an inert filter aid or certain clarifying agents) and is then removed or reduced to a level too small to be significant; or (2) a processing aid which reacts chemically or biologically within the product only to remove other substances (as by forming an insoluble compound) and both the original substance and all of its reaction products are then removed, or reduced to a level too small to be significant, and have no further technical or functional effect on the finished product; or (3) a processing aid which is added to adjust the natural deficiencies of a constituent part of an essential component if the amount added is limited so the total does not exceed the total quantity normally found in the essential component. Any substance which causes, cataltyzes, or otherwise participates in a chemical or biological reaction within the product, except as noted in items (2) and (3) of this paragraph, is specifically excluded from this definition of an incidental additive (incidental adjunct) and is considered as an additive (adjunct).

Ingredient. For purposes of this part, an ingredient is any essential component or additive (adjunct), except an incidental additive (incidental adjunct), used in the production of a finished malt beverage.

* * * * *

Natural flavor or natural flavoring. The term "natural flavor" or "natural flavoring" means the essential oils, oleoresin, essence or extractive, hydrolysate, distillate, or any product of roasting, maceration, heating or enzymolysis which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products or fermentation products thereof, whose significant function is flavoring.

* * * * *

Par. 21. Section 7.20 is amended by making editorial changes in paragraphs (a), (b) and (c)(1). As amended, § 7.20 (a), (b) and (c)(1) read as follows:

§ 7.20 General.

(a) *Application.* This subpart shall apply to malt beverages sold or shipped or delivered for shipment, or otherwise introduced into or received in any State

from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

(b) *Marking, branding, and labeling.* No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall sell or ship, or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from Customs custody any malt beverages in containers unless the malt beverages are packaged, and the packages are marked, branded, and labeled in conformity with this subpart.

(c) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law. The regional regulatory administrator may, upon written application, permit additional labeling or relabeling of malt beverages in containers if, in his judgment, the facts show that the additional labeling or relabeling is for the purpose of compliance with the requirements of this subpart or of State law.

* * * * *

Par. 22. Section 7.22 is amended by adding a new paragraph (c), to read as follows:

§ 7.22 Mandatory label information.

* * * * *

(c) Beginning January 1, 1983, a list of ingredients or the option statement and address in the United States where the ingredient information is available shall appear as required by § 7.27a.

Par. 23. A new section, § 7.27a, is added immediately following § 7.27, to read as follows:

§ 7.27a. List of ingredients. (Not mandatory before January 1, 1983.)

(a) *Ingredients*—(1) *Label disclosure.* There shall be shown on the brand label, back label, on a separate strip label, on the cap of the bottle, or top of the container a list of all ingredients used in the production or treatment of malt beverages. If applicable, the list of ingredients must contain the statement "Not Necessarily In Order Of Predominance."

(2) *Exception.* The list of ingredients required under paragraph (a)(1) of this section, need not appear on the label where the following conditions are met.

(i) The producer, bottler, packer, or importer timely provides a list of ingredients upon request. The list must comply with the requirements for label disclosure, except that the list may include all additives which are sometimes used in the product. Such additives shall be identified by words indicating that they may or may not be present such as "or," "and/or" "contains one or more of the following." Where the American producer or bottler takes this exception, a list of ingredients to be furnished to consumers shall be submitted as an attachment to the Form 1649 or Form 1649 Supplemental.

(ii) A statement must appear in the following language, on a brand label or a separate strip label on the front of the container: "For Information About Ingredients In This Product, Write: (*insert name of addressee and mailing address in the United States with zip code where information is available, unless this address appears elsewhere on the container.*)"

(iii) The label contains no statements which purport to constitute a list of ingredients, such as "made from grains, hops and yeast," unless such a statement is otherwise required by § 7.24(a), as a statement of composition. Where the statement of composition is required, the language described in paragraph (a)(2)(ii) of this section, must be in direct conjunction with the composition statement.

(b) *Form of list.* When used on a label, the list shall be separate and distinct from all other matter shown on the label and shall take substantially the following form: "Ingredients," followed by a full listing of essential components (as defined in § 7.10 of this part) and a specific list of the additives used in the product. Essential components not present in the product may be listed if they are sometimes used to produce the malt beverage. Such essential components shall be identified by words indicating they may or may not be present, such as "or," "and/or," "contains one or more of the following." At the option of the bottler, an exact listing of essential components may appear. No additives shall be listed unless actually present. Ingredients which are duplicated in the finished malt beverage product need be listed only once.

(c) *Prohibited statements in the ingredient list.* While permitted elsewhere on the label, statements of the following types may not appear in the ingredient list: (1) statements of ingredients formed within the product; (2) statements denoting quality, such as "finest" malt or "best" hops; and (3) negative statements, such as "contain no preservatives or additives (adjuncts)."

(d) *Additional statements.* Specific function statements for additives (adjuncts) included in the ingredient list may be used at the option of the producer if:

(1) The statement is truthful;

(2) The statement does not create a misleading impression; and

(3) The statement is made in substantially the following form: "(*additive/adjunct name*), to clarify" or "to preserve."

(e) *Nomenclature.* When possible, ingredients shall be listed by common name (a name likely to be recognized by the average consumer as referring to a distinct substance) such as water or yeast. Essential components shall be broken down into agriculturally identified substances such as "hops," "barley," "rice," or "corn." Compounded essential components, such as corn syrup, that have had other ingredients added shall be listed by their common or usual name or, in lieu of the common and usual name, by individual ingredients. Unless they can be identified by common names, additives (adjuncts) will be broken down into their component compounds. As an example, a foam stabilizer which contains propylene glycol alginate and gum arabic shall be listed by the names of the two elements. Chemical nomenclature will be based on that used by the Food and Drug Administration. In all cases, additives/adjuncts and incidental additives/incidental adjuncts which are not authorized for use in Parts 70–82 or Parts 170–189, of 21 CFR, or are not Generally Recognized As Safe (GRAS), may not be used in malt beverages.

(f) *Coloring materials.* (1) Mandatory label disclosure is required for FD&C Yellow No. 5, even if other ingredients are not listed.

(2) *Other coloring materials.* The words "artifically colored" shall be stated on the label of any malt beverages containing synthetic or natural materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that:

(i) Coloring material may be denoted by FD&C color and number; or

(ii) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color; or

(iii) If all of the coloring material used is from lots certified by the Food and Drug Administration for use in foods,

the term "certified color" may be used in lieu of the term "artificial color"; or

(iv) If no coloring material other than caramel has been added there may be stated in lieu of the words "artificially colored," the words "colored with caramel."

(g) *Flavoring materials.* Natural and/or artificial flavors used in malt beverages shall be identified in the ingredient list in accordance with the labeling of flavors under FDA regulations. Examples are "natural and artificial," "artificial and natural," "natural," or "artificial." In the case of natural flavors, a truthful and adequate statement of the source of the flavor may be made in lieu of the words "natural flavor(s)."

Par. 24. Section 7.28 is amended by making editorial changes in paragraphs (a), (b), (c), and (e), and by adding a type size requirement for ingredient lists to paragraph (b). As amended, § 7.28 (a), (b), (c) and (e) reads as follows:

§ 7.28 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all statements required by this subpart are readily legible under ordinary conditions, and all the statements are on a contrasting background.

(b) *Size of type.* (1) Containers of more than one-half pint.

(i) All mandatory information required on labels by this part, except alcoholic content statements and the list of ingredients, shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983); except that if contained among other descriptive or explanatory information, the script, type or printing of all mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(ii) Where an alcoholic content statement is required by State law all portions of any such alcoholic content statement shall be of the same size and kind of lettering and of equally conspicuous color, and the lettering shall not be larger than 2 millimeters (or 8-point gothic until January 1, 1983), except when otherwise required by State law.

(iii) (Not mandatory before January 1, 1983). The ingredient list shall be legible and conspicuous and in lettering not smaller than 1 millimeter.

(2) Containers of one-half pint or less.

(i) All mandatory information required on labels by this part, except alcoholic content statements and the list of ingredients, shall be in script, type, or printing not smaller than 1 millimeter (or 6-point gothic until January 1, 1983); except that if contained among other descriptive or explanatory information, the script, type or printing of all mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(ii) Where an alcoholic content statement is required by State law all portions of any such alcoholic content statement shall be of the same size and kind of lettering and of equally conspicuous color, and the lettering shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983), but shall not be larger than 2 millimeters (or 8-gothic until January 1, 1983, except when otherwise required by State law.

(iii) (Not mandatory before January 1, 1983). The ingredient list shall be legible and conspicuous and in lettering not smaller than one-half millimeter.

(c) *English language.* All information, other than the brand name, required by this subpart to be stated on labels shall be in the English language. Additional statements in foreign languages may be made, if the statements do not conflict with, or are contradictory to, the requirements of this subpart. Labels on containers of malt beverages bottled or packed for consumption within Puerto Rico may, if desired, state the information required by this subpart solely in the Spanish language, in lieu of the English language, except that the net contents shall also be stated in the English language.

* * * * * *

(e) *Additional information.* Labels may contain information other than the mandatory label information required by this subpart if the information complies with the requirements of this subpart and does not conflict with, or in any manner qualify, statements required by this part.

Par. 25. Section 7.29 is amended by removing the footnote and adding it to paragraph (a)(5). As amended, § 7.29(a)(5) reads as follows:

§ 7.29 Prohibited practices.

(a) *Statements on labels.* * * *

(5) Any statement, design, device, or representation of or pertaining to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Statements in substantially the following form are not considered misleading: "We will refund the purchase price to the purchaser if he/she is in any manner dissatisfied with the contents of this package."

(Name of the permittee making statement)

* * * * *

Par. 26. Section 7.31 is completely revised, to read as follows:

§ 7.31 Label approval and release.

(a) *Certificate of label approval.* No imported malt beverages in containers shall be released from Customs custody for consumption unless there is deposited with the appropriate Customs officer at the port of entry the original or a photostatic copy of an approved certificate of label approval, Form 1649.

(b) *List of ingredients.* Each application for a certificate of label approval covering imported malt beverages in containers bottled or packed after December 31, 1982, shall be accompanied by a list of ingredients, certified as accurate by an authorized government official of the foreign country where the malt beverages were bottled or packed prior to entry into U.S. Customs custody, and such list shall contain the information required by § 7.27a.

(c) *Release.* If the original or photostatic copy of Form 1649 or, if applicable, Form 1649 Supplemental bears the signature of the Director, then the brand or lot of imported malt beverages bearing labels identical with those shown thereon may be released from U.S. Customs custody under one of the following conditions:

(1) Malt beverages bottled or packed and removed from U.S. Customs custody prior to January 1, 1983, if an approved Form 1649 is on file.

(2) Malt beverages bottled or packed shall not be removed from U.S. Customs custody on or after January 1, 1983, unless a valid Form 1649 is on file; and

(i) The shipment is accompanied by a certificate signed by an authorized government official of the foreign country where such malt beverages was bottled or packed certifying that such malt beverages was bottled or packed prior to January 1, 1983; or

(ii) The shipment is being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before December 31, 1982.

(3) Malt beverages bottled or packed prior to January 1, 1983, may be removed from U.S. Customs custody on or after January 1, 1983, without the certificate required in paragraph (c)(2) of this section if a valid Form 1649 or Form 1649 Supplemental, which includes a copy of the certified list of ingredients, is on file.

(4) Malt beverages bottled or packed on or after January 1, 1983, shall not be released from U.S. Customs custody unless a valid Form 1649 or Form 1649 Supplemental, which includes a copy of the certified list of ingredients, is on file.

(d) *Relabeling.* Imported malt beverages in Customs custody which are

not labeled in conformity with certificates of label approval (including Form 1649 Supplemental) issued by the Director must be relabeled, prior to release, under the supervision and direction of the Customs officers of the port at which the malt beverages are located.

(e) *Approval of ingredients lists.* Where the only change to the mandatory information on an approved label is the addition of, or a change in the list of ingredients or the option statement and the address in the United States where the ingredient information is available as required by § 7.27a, a new Form 1649 shall not be filed. In lieu thereof, this information shall be furnished by filing a Form 1649 Supplemental in accordance with the instructions on the form. If the identical ingredient list, or the option statement and the address in the United States where the ingredient information is available, is to be used with more than one approved label, a single Form 1649 Supplemental may be filed covering all such labels.

Par. 27. Section 7.41 is revised by designating the existing paragraph as (a) and adding a new paragraph (b) and other editorial changes. As revised, § 7.41 reads as follows:

§ 7.41 Certificates of label approval.

(a) No person shall bottle or pack malt beverages, or remove malt beverages from the plant where bottled or packed unless application is made to the Director, and an approved certificate of label approval, Form 1649, is issued. This certificate of label approval shall be issued by the Director upon application made on Form 1649 properly filled out and certified to by the applicant. Each application for a certificate of label approval covering labels for malt beverages which are imported in bulk for subsequent bottling in the United States, shall be accompanied by a list of ingredients, certified as accurate by an authorized government official of the foreign country where such malt beverage was last processed prior to entry into U.S. Customs custody. The certified list of ingredients shall contain the information required by § 7.27a.

(b) Where the American bottler takes the exception as provided in § 7.27a(a)(2), a list of ingredients to be included in letters to consumers shall be submitted as an attachment to the Form 1649 or Form 1649 Supplemental.

Par. 28. Section 7.50 is amended by making editorial changes. As amended, § 7.50 reads as follows:

§ 7.50 Application.

No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall publish or disseminate, or cause to be published or disseminated, by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter any advertisement of malt beverages if the advertisement is in, or is calculated to induce sales in interstate or foreign commerce, or is disseminated by mail, unless the advertisement is in conformity with this subpart. This subpart shall apply to advertisements of malt beverages intended to be sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the laws of the State impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in the State. This subpart shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless the publisher or radio broadcaster is engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, directly or indirectly, or through an affiliate.

Signed: May 8, 1980.

G. R. Dickerson,

Director.

Approved: May 13, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-17849 Filed 6-10-80; 12:32 pm]

BILLING CODE 4810-31-M

federal register

Friday
June 13, 1980

Part VIII

Department of Housing and Urban Development

Government National Mortgage Association

Guaranty of Mortgage-Backed Securities

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 390

[Docket No. R-80-824]

Guaranty of Mortgage-Backed Securities; Amendment To Establish Rules Covering Issuers' Securities Marketing and Trading Activities

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This amendment establishes rules governing the securities marketing and trading practices of issuers of securities guaranteed by the Government National Mortgage Association, "GNMA." The amendment has three basic elements: (1) A requirement that issuers enter into agreements to purchase or sell securities only when the transaction is suitable, taking into account the issuer's financial capacity and contractual obligations; (2) a requirement that issuers, with respect to certain forward market transactions, enter into contracts which provide for at least weekly mark to market deposits of collateral with an independent financial institution; and (3) a requirement that issuers exercise sound and prudent business practices in the marketing and trading of securities. This final rule is intended to help avoid abuses in issuers' marketing and trading of securities and to provide assurance that issuers' ability to administer their outstanding securities will not be jeopardized by their securities marketing and trading activities.

EFFECTIVE DATE: Section 390.52, effective September 11, 1980; all other sections, effective July 14, 1980.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-8772. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On December 19, 1979, the Government National Mortgage Association published a Notice of Proposed Rulemaking (44 FR 75348) to amend regulations relating to the Mortgage-Backed Securities Program (24 CFR Part 390). Comments were invited until February 19, 1980.

A total of 23 comment letters was received. Each comment was carefully considered. The following is a summary of the rule's background, the major comments received, and the changes made to the proposed rule.

Background

GNMA is amending its regulations applicable to the Mortgage-Backed Securities Program. The amendment, most importantly, requires GNMA-approved issuers of mortgage-backed securities to incorporate certain terms and conditions in their delayed delivery contracts, including an obligation of both parties to the contract to mark to market. Marking to market involves the deposit of collateral to offset adverse market price changes in connection with delayed delivery contracts. The rule also requires issuers to engage only in securities transactions which are suitable to the issuers' financial circumstances and sound, business-like operation. This final rule, further, incorporates into GNMA's regulations requirements relating to "prudent business practices" which have been in existence as published in the *GNMA Mortgage-Backed Securities Guide,* GNMA Handbook 5500.1, for over two years. The prudent business practice rules obligate issuers: (1) to establish procedures to provide the basis for determining the financial integrity of securities dealers, brokers, and investors with which they do business and (2) to have internal management controls to assure coordination of delayed delivery contract activities.

GNMA published the proposed rule as a means of addressing abuses that have occurred in the trading of mortgage-backed securities. While the integrity of the securities is absolutely sound, abuses in the way in which the securities are sold, financed, and traded create potential threats to their liquidity and pricing, and hence to the financing of large numbers of housing transactions.

Some abuses have resulted primarily from high pressure sales tactics, undercapitalization, and inappropriate speculative activity by participants in the market other than securities issuers. However, some issuers of GNMA-guaranteed securities also have undertaken inappropriate risks in purchasing and selling securities. By engaging in these transactions, issuers have incurred substantial losses which threatened GNMA with loss on its guarantees of the issuers' securities. GNMA has an obligation and the authority to take steps to assure that issuers of GNMA-guaranteed securities conduct their marketing and trading activities in a manner that avoids speculative risks which could jeopardize the long term success of the Mortgage-Backed Securities Program and its ability to help assure the availability of mortgage credit at reasonable interest rates for large numbers of moderate and middle income families.

Discussion of Comments

The following discusses the major comments received on a section by section basis.

§ *390.50(a) Delayed delivery contract.*

Three comments suggested that this definition provide that a delayed delivery contract be a contract with a settlement date at least thirty days after the contract date, rather than five days. This suggestion is adopted since thirty days is consistent with general industry practice.

One comment suggested that exchanged-traded options be excluded from coverage by the rule. While such options have not yet been approved by the Federal securities regulatory agencies, it is GNMA's intent to exclude them from coverage by this rule should they be approved. The proposed rule has been expanded to reflect this exclusion.

§ *390.50(c) Regulated transaction.*

Seven comments urged that the list of transactions that are excluded from regulation be expanded to include one or more of the following: (1) Sales of construction loan and project loan securities guaranteed by GNMA, (2) optional delivery (standby or "put") contracts, and (3) optional purchase ("call") contracts. These suggestions have been adopted. Issuances of construction and project loan securities guaranteed by GNMA are carried out over an extended period of time, generally on a direct placement basis. Such transactions are not as subject to potential abuse as are sales of single family loan securities, and making them subject to mark to market requirements could impair their marketability. All optional delivery contracts, where it is the issuer of GNMA-guaranteed securities that has the option to perform, have been excluded from coverage because in such instances the issuer does not face a risk of loss if the market price of securities moves adversely to the issuer.

Two commentators suggested exempting from the contract requirements forward delivery transactions where the issuer owns securities which would satisfy its forward delivery obligation. This suggestion is not adopted because of the difficulties it would entail for securities dealers and investors in administering such a provision.

One commentator urged that purchases (or sales) of mortgage participation certificates directly from (or to) the Federal Home Loan Mortgage Corporation (FHLMC) not be included among regulated transactions. GNMA concurs in this recommendation and the definition has been modified accordingly. This change has the effect of according issuances of mortgage participation certificates by the FHLMC the same kind of exception from mark to market requirements as is accorded to issuances of GNMA securities by the GNMA issuers.

Two commentators proposed that the rules be applicable only to issuers that are not Federally regulated depository institutions. This would avoid the possibility of duplicative and unnecessary regulation since most such Federally regulated institutions already are subject to policy statements or rules dealing with forward trading. Others believe that all issuers should be treated equally by GNMA. On balance, GNMA has adopted this latter view, and has not revised the proposed rule in this regard. GNMA believes the mark to market, suitability, and prudent business practice rules are sound requirements for all GNMA issuers engaged in marketing and trading securities. This is the case even though certain groups of issuers may be subject to trading rules promulgated by other agencies. This final rule being implemented by GNMA applies in a reasonable manner to all issuer firms and will not prove inconsistent or incompatible with policy statements or rules issued by other agencies.

Three commentators believed that the exclusion from coverage of security sales where settlement occurs no later than the last day of the month in which the 120th day after the trade date occurs provided too short a period for settlement of exempt transactions. One commentator believed it provided too long a period. The final rule increases the 120 day period to 150 days. The purpose of this exception to mark to market coverage is to recognize a normal production period for loan production and marketing. While many issuers can regularly produce loans and issue securities within a 120-day period, GNMA is persuaded that many smaller firms, and firms in certain geographic areas, require a longer period. Also, securities based on loans on newly constructed homes tend to have a "production cycle" longer than 120 days because of the time it takes to complete construction. GNMA believes the increase of the exemption period to 150 days is justified, too, by the fact that trading abuses have tended to occur not in contracts to *sell* securities within the normal production period but rather in issuer contracts to sell securities in the period beyond the normal production cycle, and more particularly in issuer contracts to *buy* securities.

One commentator indicated that the text relating to the exclusion of contracts which settle within 120 days of the trade date (now 150 days) needed to be clarified. It is intended that this exclusion apply only where an issuer holds a GNMA Commitment to Guaranty Securities in at least an amount comparable to the forward delivery contract. The text has been changed to help clarify that such a commitment cannot be used to effect more than one sale and thereby avoid the intended effect of the regulation.

§ *390.50(d)—Securities.*

Five commentators recommended that the definition of securities covered by the rule be limited to just GNMA-guaranteed issues or to GNMA-guaranteed issues and Federal Home Loan Mortgage Corporation (FHLMC) mortgage participation certificates. The definition has been narrowed to include only GNMA-guaranteed securities and FHLMC mortgage participation certificates. It is these securities that need and make use of the forward market process far more so than other types of government securities. Also, it is these securities that are, because of their dependence on the forward market process, most prey to trading abuses. Thus this final rule is addressed just to those specific instruments that already have proved to be subject to, or are clearly potentially subject to, serious trading abuses.

One commentator questioned GNMA's authority to regulate GNMA issuers' trading in FHLMC mortgage particpation certificates. Issuers' trading in such certificates has the potential for exposing GNMA to risk of loss just as easily as can an issuer's trading in GNMA securities. GNMA has clear authority to regulate GNMA issuers in order to minimize its risk of loss and protect the integrity of its guaranty.

§ *390.51—Suitability of issuer marketing and trading transactions.*

One comment requested that this rule be clarified to state that any judgment as to the suitability of a transaction should relate to conditions "at the time the transaction is entered into." This is the intent of the rule. It has not been revised because it is believed to be stated appropriately as originally drafted.

§ *390.52(a)(1)—Frequency of marking to market.*

Two commentators suggested that deposits of collateral should be adjusted bi-weekly or monthly, rather than at least weekly. However, in light of the high volatility of market prices, and the widespread industry use of daily or weekly marking, GNMA believes that at least a weekly adjustment to collateral is necessary for a sound mark to market procedure.

§ *390.52(a)(2)—Eligible collateral.*

Fourteen commentators urged that collateral other than cash be allowed. Suggestions included direct U.S. Treasury obligations, securities guaranteed by a Federal agency, letters of credit, certificates of deposit, and bank lines of credit. The list of eligible collateral has been expanded to include cash, unmatured negotiable debt obligations issued or guaranteed by the United States government or an agency or instrumentality thereof, and irrevocable-unconditional letters of credit in a form acceptable to GNMA and issued by a banking institution supervised by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Reserve Board. This is consistent with allowable collateral requirements established by other Federal agencies, and with widely accepted industry practices. The acceptable form of letter of credit will be published in the **Federal Register** and in the *GNMA Mortgage-Backed Securities Guide.*

One commentator suggested that the collateral not be required to be held by an independent third party institution. Rather, the parties to the delayed delivery contract should be allowed to agree between themselves that one of them would hold the collateral. To provide maximum protection to both parties, the final rule provides that the collateral must be held by an independent, Federally regulated, third party financial institution.

Four commentators suggested that collateral should not have to be posted until there was an adverse market movement of, for example, 100 to 200 basis points, or in excess of some stated percentage of a firm's net worth. Because such methods do not provide accurate indicators of a firm's liquidity or ability to cover its losses, and because net worth is difficult to measure on a frequent and current basis, these suggestions have not been adopted.

§ *390.52(a)(3)—Netting positions.*

Three commentators appear to have not fully understood the intent of this

section. It permits a party to calculate its unrealized gains and losses with respect to all its regulated transactions with the same contra-party. Only if the netting of these positions produces an unrealized loss is a party which has such a net unrealized loss required to deposit collateral.

§ 390.52(a)(4)—Pair-offs.

Two commentators recommended that, where an issuer's market position in an unregulated sale transaction offsets an adverse market movement in a regulated purchase transaction between the same two parties, the amount of collateral required in connection with the purchase transaction should be adjusted downward accordingly. GNMA concurs in this proposal and it has been incorporated in this section.

§ 390.52(b)—Central clearing facilities.

Seven commentators proposed that issuers be permitted to satisfy the minimum mark to market contract requirements by clearing regulated transactions through established central clearing systems acceptable to GNMA. Several of the commentators made specific reference to the clearing facility established by the MBS Clearing Corporation, a subsidiary of the Midwest Stock Exchange, Inc. This proposal is adopted. Substantial economies of scale could be achieved through centralized and standardized clearing and settlement procedures.

GNMA also has determined that the standard delayed delivery clearing and settlement procedures currently used by members of the MBS Clearing Corporation substantially conform with, and serve the same objectives as, the contract requirements of section 390.52. Therefore, parties to regulated transactions who use the current standard MBS Clearing Corporation clearing and settlement procedures, or those of another central clearing facility which GNMA may from time to time find approvable pursuant to section 390.52(b), will satisfy these minimum contract requirements. GNMA will monitor changes in each central clearing facility's procedures and will notify issuers if and when such procedures no longer substantially conform with the requirements of section 390.52.

§ 390.60—Audits and reports.

One commentator indicated concern that securities dealers may be subject to audit and reporting requirements of GNMA. This section of the regulations is not new, but rather is merely re-numbered to accommodate the numbering system of the amended rule. It is not the intent of this final rule to revise in any way the audit and report requirements of the GNMA regulations from what they previously authorized.

GNMA recognizes that issuers will require a reasonable amount of time to establish appropriate contractual relationships with brokers, dealers, and investors in connection with the new mark to market requirements. To allow time for such arrangements to be made, section 390.52 of this final rule does not become effective until 90 days after its publication.

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government. Copies of the Findings are available for inspection and copy in the Office of the Rules Docket Clerk.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Part 390 is amended to establish a new Subpart D and to revise and redesignate present Subpart D as Subpart E as follows:

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

* * * * *

Subpart D—Marketing and Trading Requirements

Sec.

390.50 Definitions.
390.51 Suitability of issuer marketing and trading transactions.
390.52 Contract (mark to market) requirements.
390.53 Prudent business practices.
390.54 Failure to comply.

Subpart E—Miscellaneous Provisions

390.60 Audits and reports.
390.61 Applications.

* * * * *

Subpart D—Marketing and Trading Requirements

§ 390.50 Definitions

As used in this subpart, the following terms shall have the meaning indicated:

(a) "Delayed delivery contract" means a contract for the purchase or sale of one or more securities to be delivered at an agreed future settlement date, which is more than thirty calendar days after the contract's trade date. The term includes both contracts which contemplate mandatory delivery and acceptance of the securities (including agreements to sell/purchase and subsequently repurchase/resell) and option contracts which give one party the right but not the obligation to deliver securities to, or demand delivery of securities from, the other party. The term does not include futures contracts or options contracts utilized in a contract market, or listed on an exchange, designated as such by, and in compliance with the requirements of, the Commodities Futures Trading Commission or the Securities and Exchange Commission. A delay delivery contract is "open" if it has not been fulfilled by the delivery of securities or, in the case of an option, it has not been but still may be exercised.

(b) "Mark to market" means the act of determining the market price of securities purchased or sold pursuant to an open delayed delivery contract and the further act, by the party which has an unrealized loss (when the market price is measured against the contract's price), of depositing collateral for the benefit of the contract's other party.

(c) "Regulated transaction" means the purchase or sale of securities by an issuer pursuant to a delayed delivery contract, except that the term does not include:

(1) A sale of securities where (i) the issuer holds a valid outstanding Commitment to Guaranty Mortgage-Backed Securities (which is not applied in connection with another transaction) issued by the Association in an amount at least equal to the face amount of the securities sold, and (ii) the settlement date under the contract is no later than the last day of the calendar month in which the 150th day after the contract's trade date falls;

(2) A sale of securities guaranteed by the Association and based on construction loans (construction loan securities) or project loans (project loan securities);

(3) A sale or purchase of securities pursuant to a contract which does not obligate the issuer to actually sell/purchase securities; that is, a put or call transaction in which the issuer has the option to perform; or

(4) A purchase (or sale) of mortgage participation certificates directly from (or to) the Federal Home Loan Mortgage Corporation.

(d) "Securities" means any security guaranteed by the Association pursuant to section 306(g) of the National Housing Act and mortgage participation certificates issued by the Federal Home Loan Mortgage Corporation.

(e) "Settlement date" means the date agreed upon by the parties to a regulated transaction for the full and

final payment of funds and delivery of securities or the date on which the parties make full and final payment of funds and delivery of securities.

(f) "Trade date" means the date on which the parties to a regulated transaction agree to the purchase or sale of securities, regardless of the date on which the securities are to be delivered or the right to deliver them may be exercised.

§ 390.51 Suitability of issuer marketing and trading transactions.

Issuers shall enter into agreements to purchase or sell securities only to the extent the transactions are suitable for the issuer in view of its financial capacity and existing contractual obligations, including contracts with the Association. An issuer shall not enter into any agreement to purchase or sell securities if the result of the transaction could materially jeopardize the issuer's ability to continue to satisfy the basic net worth requirements set forth in § 390.3 or its ability to continue to administer its outstanding securities.

§ 390.52 Contract (mark to market) requirements.

(a) An issuer may engage in a regulated transaction only if it undertakes the transaction in accordance with an executed delayed delivery contract which requires, at a minimum, each of the following (except paragraph (a)(4) which the parties at their option may agree to require):

(1) Both parties shall agree to mark to market at least once each week from the trade date until the settlement date.

(2) A party which deposits collateral pursuant to its obligation to mark to market shall make the deposit with an independent Federally regulated financial institution in the form of: (i) Cash, (ii) Unmatured, negotiable debt obligations issued or guaranteed by the United States Government or an agency or instrumentality thereof, or (iii) Irrevocable, unconditional letters of credit in a form acceptable to GNMA, and issued by a banking institution supervised by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Reserve Board. The institution at which the collateral is deposited shall be unrelated to, not affiliated with, and in no way controlled by a party to the regulated transaction.

(3) The collateral maintained with the independent financial institution shall be increased or adjusted at least weekly to the extent necessary to assure a deposit, by the party which has a net unrealized loss with respect to all its regulated transactions with the same contra-party, with a value equal to one hundred percent of the net unrealized loss.

(4) The amount of collateral required by paragraph (a)(3) of this section may be adjusted downward to the extent the unrealized loss associated with an issuer's purchase of securities in a regulated transaction is offset by an unrealized gain with respect to a sale (to the same contra-party and on substantially the same terms) of securities, which sale is not a regulated transaction because of the exclusion provided in § 390.50(c)(1).

(5) Both parties shall agree to the method by which the market price of securities will be determined.

(6) Each party shall maintain complete and accurate records of each regulated transaction, including its mark to market calculations and its deposits and adjustments of collateral made with respect to each delayed delivery contract under which it is obligated to make deposits.

(7) The same institution may be the depository for collateral deposited by a party under different delayed delivery contracts. The collateral deposited by a party under one delayed delivery contract may be commingled with collateral deposited by that party under other delayed delivery contracts with the same contra-party.

(b) An issuer may satisfy paragraph (a) of this section by carrying out a regulated transaction through clearing and settlement procedures established by a central clearing facility, which procedures substantially conform with the requirements of this section, as determined by the Association.

§ 390.53 Prudent business practices.

Issuers shall exercise sound and prudent business practices in the marketing and trading of securities, as follows:

(a) Procedures must be established to provide the basis for determining the financial integrity of the securities dealers, brokers, and investors with which they conduct business. The procedures must include standards for, and steps to be taken in, determining the financial capacity and business reputation of the dealer, broker, or investor.

(b) Internal management controls must be established to assure coordination of delayed delivery contract activities, controls on the issuer's market positions, and integrity of staff.

§ 390.54 Failure to comply.

Failure by an issuer to comply with the requirements of this subpart is sufficient basis for the Association, at its option, to withhold from the issuer further commitments to guaranty mortgage-backed securities.

Subpart E—Miscellaneous Provisions

§ 390.60 Audits and reports.

The Association may at any reasonable time audit the books and examine the records of any issuer, mortgage servicer, trustee, or agent or other person bearing on compliance with the requirements of the Mortgage-Backed Securities Program, and the Association may require reasonable and necessary reports from such persons.

§ 390.61 Applications.

Applications for guaranty should be submitted to the Association's home office located at 451 Seventh Street, S.W., Washington, D.C. 20410.

Authority: Sections 306(g) and 309(a) of the National Housing Act, 12 U.S.C. 1721(g) and 1723a(a).

Issued at Washington, D.C., June 11, 1980.

Ronald P. Laurent,

President, Government National Mortgage Association.

[FR Doc. 80-18058 Filed 6-12-80; 8:45 am]

BILLING CODE 4210-01-M

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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

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

31719 5–14–80 / Control of air pollution from new motor vehicles and new motor vehicle engines; certification and test procedures; parameter adjustment regulations

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commission—

Office of the Assistant Secretary for Housing—

31716 5–14–80 / Change in notification to HUD of terminations by mortgagees and lenders

31896 5–14–80 / Low cost and moderate income mortgage insurance; existing multifamily housing determinations

Rules Going Into Effect Sunday, June 15, 1980

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

31572 5–13–80 / Nusery stock, plants, roots, bulbs, seeds, and other plant products; prohibitions and restrictions

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing June 11, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: July 11 and 25; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

ST. LOUIS, MO.

WHEN: June 24 at 9 a.m.; June 25 at 9 a.m. and 1:30 p.m. (identical sessions)

WHERE: Room 3720, Federal Office Bldg. 1520 Market Street, St. Louis, Mo.

RESERVATIONS: Call Evelyn Wiebusch, Federal Information Center, 314–425–4106.

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(Revised as of April 1, 1980)

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